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50 Members

29 Democrats 21 Republicans

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Name	Residence or Mailing Address	Dist No	County of Residence	Party
Aklestad, Gary C.	P.O. Box 32, Galata, 59444	6	Toole	Republican
Anderson, Jr., John H.	P.O. Box 86, Alder, 59710	37	Madison	Republican
Beck, Thomas A. (Tom)	651 Greenhouse Rd, Deer Lodge, 59722	24	Powell	Republican
Bengtson, Esther G.	8124 Clark Rd, Shepherd, 59079	49	Yellowstone	Democratic
Bianchi, Don	490 Secretariat Circle, Belgrade, 59714	39	Gallatin	Democratic
Blaylock, Chet	502 Third Ave, Laurel, 59044	43	Yellowstone	Democratic
Brown, Robert (Bob)	333 Cougar Trl, Whitefish, 59937	2	Flathead	Republican
Bruski-Maus, Betty	Box 234, Wibaux, 59353	12	Wibaux	Democratic
Burnett, James H. (Jim)	P.O. Box 4460, Luther, 59051	42	Carbon	Republican
Christiaens, B.F. (Chris)	709 4th Ave N, Great Falls, MT 59401	18	Cascade	Democratic
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Devlin, Gerry	P.O. Box 186, Terry, 59349	13	Prairie	Republican
Doherty, Steve	1531 3rd Ave SW, Great Falls, 59404	20	Cascade	Democratic
Eck, Dorothy	10 W Garfield, Bozeman, 59715	40	Gallatin	Democratic
Farrell, William E. (Bill)	Box 8305, Missoula, 59807	31	Missoula	Republican
Franklin, Eve	4021 4th Ave S, Great Falls, 59405	17	Cascade	Democratic
Fritz, Harry	675 E Central Ave, Missoula, 59801	28	Missoula	Democratic
Gage, Delwyn	P.O. Box 787, Cut Bank, 59427	5	Glacier	Republican
Grosfield, Lorents	HC 87, Box 2145, Big Timber, 59011	41	Sweet Grass	Republican
Hager, Thomas O. (Tom)	150 Norris Ct, Billings, 59105	48	Yellowstone	Republican
Halligan, Mike	P.O. Box 9121, Missoula, 59807	29	Missoula	Democratic
Hammond, H. W. (Swede)	P.O. Box 1366, Malta, 59538	9	Phillips	Republican
Harding, Ethel M.	P.O. Box 251, Polson, 59860	25	Lake	Republican
Harp, John G.	53 Willow Dr, Kalispell, 59901	4	Flathead	Republican
Hockett, Bob	Shambo Rte Box 306, Havre, 59501	7	Hill	Democratic
Jacobson, Judy H.	330 Blacktail Canyon Rd, Butte, 59701	36	Silver Bow	Democratic
Jergeson, Greg	RR 71 Box 8, Chinook, 59523	8	Blaine	Democratic
Keating, Thomas F.	P.O. Box 20522, Billings, 59104	44	Yellowstone	Republican
Kennedy, Jr., John (Ed)	5567 Montana Hwy 35, Kalispell, 59901	3	Flathead	Democratic
Koehnke, Francis	P.O. Box 692, Townsend, 59644	16	Broadwater	Democratic
Lynch, John (J. D.)	527 W Mercury, Butte, 59701	34	Silver Bow	Democratic
Mazurek, Joseph P.	516 Hayes, Helena, 59601	23	Lewis & Clark	Democratic
Nathe, Dennis G.	P.O. Box 4, Redstone, 59257	10	Sheridan	Republican
Noble, Jerry	712 Central W, Great Falls, 59404	21	Cascade	Republican
Pinsoneault, Richard J.	P.O. Box 250, St. Ignatius, 59865	27	Lake	Democratic
Pipinich, Bob	4430 Hwy 200 Marshall Grade, Missoula, 59802	33	Missoula	Democratic

Rea, Jack (Doc)	2255 Madison Rd, Three Forks, 59752	38	Gallatin	Democratic
Rye, David	2211 Oak St, Billings, 59102	47	Yellowstone	Republican
Stimatz, Lawrence G.	P.O. Box 3762, Butte, 59702	35	Silver Bow	Democratic
Svrcek, Paul S.	P.O. Box 1392, Thompson Falls, 59873	26	Sanders	Democratic
Swift, Bernie A.	236 Rose Ln, Hamilton, 59840	32	Ravalli	Republican
Thayer, Gene	1200 32 St S Apt 2, Great Falls, 59405	19	Cascade	Republican
Towe, Thomas E. (Tom)	P.O. Box 30457, Billings, 59107	46	Yellowstone	Democratic
Tveit, Larry J.	RR 1 Box 1475, Fairview, 59221	11	Richland	Republican
Van Valkenburg, Fred R.	219 University, Missoula, 59801	30	Missoula	Democratic
Vaughn, Eleanor L.	251 Mahoney Rd, Libby, 59923	1	Lincoln	Democratic
Waterman, Mignon	530 Hazelgreen Place, Helena, 59601	22	Lewis & Clark	Democratic
Weeding, Cecil F.	P.O. Box 78, Jordan, 59337	14	Garfield	Democratic
Williams, Bob	P.O. Box 390, Hobson, 59452	15	Judith Basin	Democratic
Yellowtail, Bill	P.O. Box 308, Wyola, 59089	50	Big Horn	Democratic

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MEMBERS

Name	Residence or Mailing Address	Dist No	County of Residence	Party
Bachini, Bob	409 19th St, Havre, 59501	14	Hill	Democratic
Bardanouve, Francis	P.O. Box 367, Harlem, 59526	16	Hill	Democratic
Barnett, Joe	204 N Davis, Belgrade, 59714	76	Gallatin	Republican
Barnhart, Beverly	614 S 6th, Bozeman, 59715	80	Gallatin	Democratic
Beck, Gary	93 East Side Rd, Deer Lodge, 59722	48	Lewis & Clark	Democratic
Becker, Arlene	1440 Lewis Ave, Billings, 59102	91	Yellowstone	Democratic
Benedict, Steve	P.O. Box 668, Hamilton, 59840	64	Ravalli	Republican
Bergsagel, Ernest	HC 84 Box 8045, Malta, 59538	17	Valley	Republican
Boharski, William E.	P.O. Box 2965, Kalispell, 59901	4	Flathead	Republican
Bradley, Dorothy	919 W Lamme, Bozeman, 59715	79	Gallatin	Democratic
Brooke, Vivian M.	1610 Madeline Ave, Missoula, 59801	56	Missoula	Democratic
Brown, Dave	3040 Ottawa, Butte, 59701	72	Silver Bow	Democratic
Brown, Jan	906 Madison Ave, Helena, 59601	46	Lewis & Clark	Democratic
Clark, Robert C.	P.O. Box 262, Ryegate, 59074	31	Wheatland	Republican
Cobb, John	P.O. Box 388, Augusta, 59410	42	Lewis & Clark	Republican
Cocchiarella, Vicki	535 Livingston Ave, Missoula, 59801	59	Missoula	Democratic
Cody, Dorothy A.	P.O. Box 973, Wolf Point, 59201	20	Roosevelt	Democratic
Cohen, Ben	P.O. Box 1657, Whitefish, 59937	3	Flathead	Democratic
Connelly, Mary Ellen	3315 Whitefish Stage, Kalispell, 59901	8	Flathead	Democratic
Cromley, Brent R.	235 Park Hill Dr, Billings, 59101	94	Yellowstone	Democratic
Daily, Fred (Fritz)	1057 W Steel, Butte, 59701	69	Silver Bow	Democratic
Darko, Paula A.	P.O. Box 490, Libby, 59923	2	Lincoln	Democratic
Davis, Ervin	P.O. Box 63, Charlo, 59824	53	Lake	Democratic
DeBruycker, Jane	P.O. Box 7700, Dutton, 59433	11	Teton	Democratic
DeBruycker, Roger	SR Box 8, Floweree, 59440	13	Choteau	Republican
Dolezal, Edward J.	3236 Fifth Ave S, Great Falls, 59405	34	Cascade	Democratic
Dowell, Tim	46 West View Dr, Kalispell, 59901	5	Flathead	Democratic
Driscoll, Jerry L.	4344 Stone St, Billings, 59101	92	Yellowstone	Democratic
Elliott, Jim	100 Trout Creek Rd, Trout Creek, 59874	51	Sanders	Democratic
Ellis, Jr., Alvin A.	Rt 1, P.O. Box 4840, Red Lodge, 59068	84	Carbon	Republican
Ellison, Orval S.	HC 59 Box 106, McLeod, 59052	81	Park	Republican
Fagg, Russell	221 Ave E, Billings, 59101	89	Yellowstone	Republican
Feland, Gary	215 11th Ave N, Shelby, 59474	12	Toole	Republican
Forrester, Gary	2527 Gardiner St R 8, Billings, 59101	98	Yellowstone	Democratic
Foster, Mike	P.O. Box 126, Townsend, 59644	32	Broadwater	Republican
Galvin, Patrick G.	105 29th Ave NW, Great Falls, 59404	40	Cascade	Democratic
Gervais, Floyd (Bob)	P.O. Box 1810, Browning, 59417	9	Glacier	Democratic

Gilbert, Bob	P.O. Drawer 1228, Sidney, 59270	22	Richland	Republican
Gould, R. Budd	2205 S Fifth W, Missoula, 59801	61	Missoula	Republican
Grady, Edward J. (Ed)	Star Route, Canyon Creek, 59633	47	Lewis & Clark	Republican
Grinde, Larry Hal	RR 3, Lewistown, 59457	30	Fergus	Republican
Hansen, Stella Jean	841 Woodford St, Missoula, 59801	57	Missoula	Democratic
Hanson, H. S. (Sonny)	2237 Green Terrace Dr, Billings, 59102	87	Yellowstone	Republican
Hanson, Marian W.	P.O. Box 237, Ashland, 59003	100	Powder River	Republican
Harper, Hal	9 Comstock Rd, Helena, 59601	44	Lewis & Clark	Democratic
Harrington, Dan W.	1201 N Excelsior, Butte, 59701	68	Silver Bow	Democratic
Hayne, Harriet	P.O. Box 285, Dupuyer, 59432	10	Pondera	Republican
Hoffman, David	2720 Hwy 287, Sheridan, 59749	74	Madison	Republican
Johnson, John	124 Gresham, Glendive, 59330	23	Dawson	Democratic
Johnson, Royal C.	2915 Illinois, Billings, 59102	88	Yellowstone	Republican
Kadas, Mike	922 Taylor, Missoula, 59802	55	Missoula	Democratic
Kasten, Betty Lou	HC 77 Box A-14, Brockway, 59214	28	McCone	Republican
Keller, Vernon V.	HC 55 Box 355, Fishtail, 59028	83	Stillwater	Republican
Kilpatrick, Thomas E. (Tom)	814 First Ave Box 546, Laurel, 59044	85	Yellowstone	Democratic
Kimberley, Bervyl C. (Berv)	2511 Wyoming Ave, Billings, 59102	90	Yellowstone	Democratic
Knox, Dick	HCR Box 14, Winifred, 59489	29	Fergus	Republican
Larson, Don	P.O. Box 285, Seeley Lake, 59868	65	Missoula	Democratic
Lee, Thomas N.	P.O. Box 261, Bigfork, 59911	49	Lake	Republican
Madison, James	Jefferson City, 59638	75	Jefferson	Democratic
McCaffree, Ed	P.O. Box 1354, Forsyth, 59327	27	Rosebud	Democratic
McCarthy, Bea	1906 Ogden, Anaconda, 59711	66	Deer Lodge	Democratic
McCulloch, Scott T.	611 Tabriz Dr, Billings, 59105	96	Yellowstone	Democratic
Measure, Bruce	P.O. Box 918, Kalispell, 59903	6	Flathead	Democratic
Menahan, William T. (Red)	1304 W Fifth, Anaconda, 59711	67	Deer Lodge	Democratic
Mercer, John A.	P.O. Box 450, Polson, 59860	50	Lake	Republican
Messmore, Charlotte K.	14 20th St S, Great Falls, 59401	38	Cascade	Republican
Nelson, Linda J.	HC 51 Box 30, Medicine Lake, 59247	19	Sheridan	Democratic
Nelson, Thomas E.	1116 Moon Valley Rd, Billings, 59105	95	Yellowstone	Republican
Nisbet, Jerry	1401 Park Garden Rd, Great Falls, 59401	35	Cascade	Democratic
O'Keefe, Mark	531 Power St, Helena, 59601	45	Lewis & Clark	Democratic
Pavlovich, Robert J. (Bob)	1375 Harrison Ave, Butte, 59701	70	Silver Bow	Democratic
Peck, Ray	729 Fourth Ave, Havre, 59501	15	Hill	Democratic
Peterson, Mary Lou	234 Glen Lake Dr, Eureka, 59917	1	Lincoln	Republican
Phillips, John E.	1200 32nd St S #61, Great Falls, 59405	33	Cascade	Republican
Quilici, Joe	3040 Kossuth, Butte, 59701	71	Silver Bow	Democratic
Raney, Bob	212 S Sixth St, Livingston, 59047	82	Park	Democratic
Ream, Robert R. (Bob)	5950 Wildcat Rd, Missoula, 59802	54	Missoula	Democratic
Rice, Jim	1525 Williamsburg Rd, Helena, 59601	43	Lewis & Clark	Republican
Rice, Sheila	1501 4th Ave N, Great Falls, 59401	36	Cascade	Democratic
Russell, Angela	P.O. Box 333, Lodge Grass, 59050	99	Big Horn	Democratic
Schye, Ted	N Star Route, Glasgow, 59230	18	Valley	Democratic
Scott, John F.	P.O. Box 58, Ballantine, 59006	97	Yellowstone	Democratic
Simpkins, Richard D.	1221 Park Garden Rd, Great Falls, 59404	39	Cascade	Republican
Southworth, Jim	3843 Sandpiper Lane, Billings, 59102	86	Yellowstone	Democratic
Spring, Wilbur	2383 Penwell Bridge Rd, Belgrade, 59714	77	Gallatin	Republican
Squires, Carolyn M.	2111 S Tenth St W, Missoula, 59801	58	Missoula	Democratic
Stang, Barry (Spook)	142 Montana Hwy 135 S, St. Regis, 59866	52	Mineral	Democratic
Steppler, Don	P.O. Box 431, Brockton, 59213	21	Richland	Democratic
Stickney, Jessica	2206 Main St, Miles City, 59301	26	Custer	Democratic
Strizich, William S. (Bill)	736 27th Ave NE, Great Falls, 59404	41	Cascade	Democratic
Swysgood, Charles	506 S Atlantic, Dillon, 59725	73	Beaverhead	Republican
Thoft, Bob	1520 S Burnt Fork Rd, Stevensville, 59870	63	Ravalli	Republican
Thomas, Fred	3566 Holy Lane, Stevensville, 59870	62	Ravalli	Republican
Toole, Howard	1625 McDonald, Missoula, 59801	60	Missoula	Democratic
Tunby, Rolph	Box 56, Plevna, 59344	24	Fallon	Republican
Wallin, Norm	2422 Springcreek Dr, Bozeman, 59715	78	Gallatin	Republican
Wanzenried, David E.	435 3rd Ave NE, Kalispell, 59901	7	Flathead	Democratic
Whalen, Timothy J.	101 Avenue C, Billings, 59101	93	Yellowstone	Democratic
Wyatt, Diana E.	300 31st St S, Great Falls, 59405	37	Cascade	Democratic
Zook, Tom	c/o Broadus Stage, Miles City, 59301	25	Custer	Republican

JULY 1992

SPECIAL SESSION

OF THE FIFTY-SECOND LEGISLATURE

July 6, 1992, through July 18, 1992

MONTANA CODE ANNOTATED — STATUTE TEXT

1992

TITLE 10

MILITARY AFFAIRS AND DISASTER AND EMERGENCY SERVICES

CHAPTER 3

DISASTER AND EMERGENCY SERVICES

Part 3

State Planning and Execution

10-3-312. Maximum expenditure by governor — appropriation. (1) (a) Whenever an emergency or disaster is declared by the governor, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the general fund, an amount not to exceed $2 million in any biennium.

(b) Whenever an emergency or disaster due to fire is declared by the governor, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the general fund, an amount not to exceed $3 million in any biennium. The amount appropriated in this subsection (b) may be combined with the amount appropriated in subsection (1)(a) for an emergency or disaster due to fire.

(2) In the event of the recovery of money expended under this section, the spending authority must be reinstated to a level reflecting the recovery.

(3) If a disaster is declared by the president of the United States, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and he is authorized to expend from the general fund, an amount not to exceed $500,000 during the biennium to meet the state's share of the individual and family grant programs as provided in 42 U.S.C. 5178.

History: En. Sec. 2, Ch. 409, L. 1971; R.C.M. 1947, 79-2502; amd. Sec. 1, Ch. 626, L. 1983; amd. Sec. 7, Ch. 703, L. 1985; amd. Sec. 2, Ch. 595, L. 1989; amd. Sec. 1, Ch. 256, L. 1991; amd. Sec. 1, Ch. 12, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 12, Sp. L. July 1992, inserted (1)(b) to statutorily appropriate up to $3 million per biennium to the Governor's Office for a declared emergency or disaster due to fire; and made minor changes in style. Amendment effective August 6, 1992.

1991 Amendment: In (1) inserted second sentence regarding reinstatement of spending authority when money is recovered.

TITLE 15

TAXATION

CHAPTER 1

TAX ADMINISTRATION

Part 5

Disposition of Tax Proceeds

15-1-504. Settlement of county treasurer with state treasurer. (1) Except as provided in subsections (2) and (3), the county treasurer, between the 1st and 20th days of each month, shall remit to the state treasurer all money belonging to the state that was collected by the county treasurer during the preceding month. The remittance must be accompanied by a detailed report upon a form that the state treasurer prescribes. The state treasurer may assess counties an interest charge of 10% a year on all money not remitted within 5 days from the time required by this section.

(2) By June 20 of each year, the county treasurer shall remit to the state treasurer all money belonging to the state that was collected by the county treasurer by June 15, in addition to the amount collected during the preceding month. In July, the county treasurer shall remit all money belonging to the state that was collected by the county treasurer during the remainder of June.

(3) By December 20 of each year, the county treasurer shall remit to the state treasurer all money belonging to the state that was collected by the county treasurer by December 15, in addition to the amount collected during the preceding month. In January, the county treasurer shall remit all money belonging to the state that was collected by the county treasurer during the remainder of December.

History: En. Sec. 3990, Pol. C. 1895; re-en. Sec. 2715, Rev. C. 1907; re-en. Sec. 2255, R.C.M. 1921; Cal. Pol. C. Sec. 3865; amd. Sec. 1, Ch. 47, L. 1925; re-en. Sec. 2255, R.C.M. 1935; R.C.M. 1947, 84-4401; amd. Sec. 1, Ch. 72, L. 1991; amd. Sec. 1, Ch. 4, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 4, Sp. L. July 1992, in (1), at beginning, inserted exception clause; inserted (2) concerning June and July remittance; and inserted (3) concerning December and January remittance. Amendment effective July 21, 1992.

Coordination Instruction: Section 1, Ch. 6, Sp. L. July 1992, amended this section to require interest charges and to provide for deposit of the interest in the state general fund. Section 14, Ch. 6, Sp. L. 1992, provided that if House Bill No. 12 was passed and approved and if it amended this section, then section 1 was void. House Bill No. 12 was passed and approved as Ch. 4, Sp. L. July 1992, and amended 15-1-504, so section 1, Ch. 6, Sp. L. July 1992, was void.

1991 Amendment: Revised second sentence and inserted third sentence to allow State Treasurer to assess interest charge for late remittance of money collected by County Treasurers for the state, rather than to require the assessment; and made minor changes in style. Amendment effective July 1, 1991.

15-1-516. *(Temporary)* **General fund stabilization tax.** (1) Each coal mine operator required to pay the severance tax under Title 15, chapter 35, shall pay a general fund stabilization tax. The general fund stabilization tax is an amount equal to 7% of the tax liability computed under 15-35-103.

(2) The tax must be deposited to the credit of the state general fund.

History: En. Sec. 4, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Retroactive Applicability — Termination: Section 39(2), Ch. 15, Sp. L. July 1992, provided that this section applies to production occurring after June 30, 1992, and before July 1, 1993. This section terminates upon receipt of taxes on production occurring prior to July 1, 1993.

CHAPTER 6

PROPERTY SUBJECT TO TAXATION

Part 1

Classification

15-6-145. Class twelve property — description — taxable percentage. (1) Class twelve property includes all property of a railroad car company as defined in 15-23-211, all railroad transportation property as described in the Railroad Revitalization and Regulatory Reform Act of 1976 as it read on January 1, 1986, and all airline transportation property as described in the Tax Equity and Fiscal Responsibility Act of 1982 as it read on January 1, 1986.

(2) For the tax year beginning January 1, 1991, and for each tax year thereafter, class twelve property is taxed at the percentage rate "R", to be determined by the department as provided in subsection (3), or 12%, whichever is less.

(3) R = A/B where:

(a) A is the total statewide taxable value of all commercial property, except class twelve property, as commercial property is described in 15-1-101(1)(d); and

(b) B is the total statewide market value of all commercial property, except class twelve property, as commercial property is described in 15-1-101(1)(d).

(4) (a) For the taxable year beginning January 1, 1986, and for every taxable year thereafter, the department shall conduct a sales assessment ratio study of all commercial and industrial real property and improvements. The study must be based on:

(i) assessments of such property as of January 1 of the year for which the study is being conducted; and

(ii) a statistically valid sample of sales using data from realty transfer certificates filed during the same taxable year or from the immediately preceding taxable year, but only if a sufficient number of certificates is unavailable from the current taxable year to provide a statistically valid sample.

(b) The department shall determine the value-weighted mean sales assessment ratio "M" for all such property and reduce the taxable value of property described in subsection (4) only, by multiplying the total statewide taxable value of property described in subsection (4)(a) by "M" prior to calculating "A" in subsection (3)(a).

(c) The adjustment referred to in subsection (4)(b) will be made beginning January 1, 1986, and in each subsequent tax year to equalize the railroad taxable values.

(5) For the purpose of complying with the Railroad Revitalization and Regulatory Reform Act of 1976, as it read on January 1, 1986, the rate "R" referred to in this section is the equalized average tax rate generally applicable to commercial and industrial property, except class twelve property, as commercial property is defined in 15-1-101(1)(d).

History: En. Sec. 5, Ch. 743, L. 1985; amd. Sec. 1, Ch. 7, Sp. L. March 1986; amd. Sec. 1, Ch. 24, Sp. L. June 1986; amd. Sec. 8, Ch. 773, L. 1991; amd. Sec. 1, Ch. 10, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 10, Sp. L. July 1992, near beginning of (1) inserted reference to property of a railroad car company.

Transition: Section 13, Ch. 10, Sp. L. July 1992, provided: "(1) On or before October 31, 1992, each railroad car company shall submit to the department of revenue the information needed to make an assessment and to compute the tax for tax year 1991. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes due. Taxes are due and payable within 30 days after the tax notice is postmarked.

(2) Any freight line company license taxes paid by or on behalf of a railroad car company in 1992 for taxes owed under the provisions of Title 15, chapter 55, for tax year 1991 must be credited against the tax owed by the company under [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. If the tax paid under Title 15, chapter 55, exceeds the amount of tax owed under [sections 7 through 13] [15-23-211 through 15-23-216 and this section], the state treasurer shall refund the difference without interest.

(3) On or before October 31, 1992, each railroad car company shall submit to the department the information needed to make the assessment and to compute the tax for tax year 1992, as provided for in [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes owed. The taxes for 1992 are due and payable within 30 days after the tax notice is postmarked."

Effective Date — Retroactive Applicability: Section 17, Ch. 10, Sp. L. July 1992, provided: "[This act] is effective on passage and approval [approved August 6, 1992] and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1990."

Termination: Section 18, Ch. 10, Sp. L. July 1992, provided that sec. 13, Ch. 10, Sp. L. July 1992, an uncodified transition section, terminates January 1, 1994.

1991 Amendment: Throughout section substituted reference to class twelve for reference to class fifteen; in (1), after "1986", inserted "and all airline transportation property as described in the Tax Equity and Fiscal Responsibility Act of 1982 as it read on January 1, 1986"; in (2), in two places, substituted reference to tax year for reference to taxable year and substituted "1991" for "1986"; in (3)(a) and (3)(b), after "15-1-101(1)(d)", deleted "including class 1 and class 2 property"; and in (4)(b) inserted reference to subsection (a) of subsection (4) and subsection (3). Amendment effective May 15, 1991.

Retroactive Applicability: Section 18(3), Ch. 773 L. 1991, provided in part that the amendments to class fifteen property contained in 15-6-145, as amended by [section 8] of Ch. 773, L. 1991, except those amendment that change the number of the class, are effec-

tive on passage and approval (approved May 15, 1991) and apply retroactively, within the meaning of 1-2-109, to tax years beginning on or after January 1, 1991.

CHAPTER 7

APPRAISAL

Part 1

General Methods

15-7-102. *(Temporary)* **Notice of classification and appraisal to owners — appeals.** (1) It shall be the duty of the department of revenue, through its agent as specified in subsection (2), to cause to be mailed to each owner and purchaser under contract for deed a notice of the classification of the land owned or being purchased by him and the appraisal of the improvements on the land only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

(a) change in ownership;

(b) change in classification;

(c) change in valuation; or

(d) addition or subtraction of personal property affixed to the land.

(2) (a) The county assessor shall assign each assessment to the correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a standardized form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of his property and of changes over the prior tax year.

(b) If the valuation of the property described in subsection (1) increased from the prior tax year, the notice must include the following information:

(i) the valuation of the property in the prior tax year; and

(ii) a statement showing the amount of taxes that would be due on the property in the current tax year if the property were subject to the same mill levies imposed in the prior tax year.

(3) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of his land or improvements, he may submit his objection in writing to the department's agent. In an objection to the appraisal of the property, the department may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. The department shall give reasonable notice to the taxpayer of the time and place of hearing and hear any testimony or other evidence that the taxpayer may desire to produce at that time and afford the opportunity to other interested persons to produce evidence at the hearing.

After the hearing, the department shall determine the true and correct appraisal and classification of the land or improvements and notify the taxpayer of its determination. In the notification, the department must state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land shall be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a hearing as provided in subsection (3) is held or not, the department or its agent may not adjust an appraisal or classification upon taxpayer's objection unless:

(a) the taxpayer has submitted his objection in writing; and

(b) the department or its agent has stated its reason in writing for making the adjustment.

(5) A taxpayer's written objection to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. Each county appraiser shall make the records available for inspection during regular office hours.

(6) (a) If any property owner feels aggrieved at the classification and/or the appraisal made by the department, he shall have the right to appeal to the county tax appeal board and then to the state tax appeal board, whose findings shall be final subject to the right of review in the courts. The property owner may appeal the base valuation and the classification determination. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order. If any percentage adjustment required by the sales assessment ratio study provided in 15-7-111 is applied to the base value, the valuation of the property for the current year must be the same as the board's determination of market value and the property must continue to be assessed in the area designated by the department.

(b) If a property owner feels aggrieved by either the percentage adjustment or the area designation established by the department pursuant to 15-7-111, he may, within 60 days of the date the rules provided for in subsection (7) are adopted to implement 15-7-111(4)(b), file suit seeking a declaratory judgment action to review the department's determination of the percentage adjustment or area designation.

(c) The district court shall consolidate all such actions brought by property owners into one proceeding. If the suit encompasses more than one judicial district, the venue for action is the first judicial district of Lewis and Clark County.

(d) During the pendency of the action, the court may not restrain or enjoin the department from implementing either the percentage adjustments or area designations made by the department, but the court may direct that the increase in the property owner's tax be paid into the property tax protest fund of the county in which the property is located. Upon final judgment, the court

may order all or a portion of the protested tax to be refunded to the property owner or such other remedy as the court considers appropriate.

(7) The percentage adjustments, stratum, and area designations must be adopted by administrative rule. An annual hearing must be held to accept testimony on the percentage adjustments, stratum, and area designations. The department shall present its findings and the proposed rules to the revenue oversight committee.

15-7-102. *(Effective January 1, 1993)* **Notice of classification and appraisal to owners — appeals.** (1) It shall be the duty of the department of revenue, through its agent as specified in subsection (2), to cause to be mailed to each owner and purchaser under contract for deed a notice of the classification of the land owned or being purchased by him and the appraisal of the improvements on the land only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

(a) change in ownership;

(b) change in classification;

(c) change in valuation; or

(d) addition or subtraction of personal property affixed to the land.

(2) The county assessor shall assign each assessment to the correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a standardized form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of his property and of changes over the prior tax year.

(3) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of his land or improvements, he may submit his objection in writing to the department's agent. In an objection to the appraisal of the property, the department may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. The department shall give reasonable notice to the taxpayer of the time and place of hearing and hear any testimony or other evidence that the taxpayer may desire to produce at that time and afford the opportunity to other interested persons to produce evidence at the hearing. After the hearing, the department shall determine the true and correct appraisal and classification of the land or improvements and notify the taxpayer of its determination. In the notification, the department must state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land shall be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a hearing as provided in subsection (3) is held or not, the department or its agent may not adjust an appraisal or classification upon taxpayer's objection unless:

(a) the taxpayer has submitted his objection in writing; and

(b) the department or its agent has stated its reason in writing for making the adjustment.

(5) A taxpayer's written objection to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. Each county appraiser shall make the records available for inspection during regular office hours.

(6) If any property owner feels aggrieved at the classification and/or the appraisal made by the department, he shall have the right to appeal to the county tax appeal board and then to the state tax appeal board, whose findings shall be final subject to the right of review in the courts. The property owner may appeal the base valuation and the classification determination. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order.

History: En. Sec. 5, Ch. 191, L. 1957; amd. Sec. 17, Ch. 405, L. 1973; R.C.M. 1947, 84-429.11; amd. Sec. 3, Ch. 710, L. 1979; amd. Sec. 1, Ch. 105, L. 1983; amd. Sec. 11, Ch. 526, L. 1983; amd. Sec. 3, Ch. 29, Sp. L. June 1986; amd. Sec. 2, Ch. 613, L. 1987; amd. Sec. 1, Ch. 9, L. 1989; amd. Sec. 1, Ch. 636, L. 1989; amd. Secs. 1, 7, Ch. 680, L. 1991.

Compiler's Comments

1991 Amendment: (Temporary version) Inserted (2)(b) providing what a notice must contain if property valuation increases; in (3), after "appraisal", inserted "as it reflects the market value of the property as determined by the department" and inserted second sentence concerning what may be considered as evidence in an objection to an appraisal; in (6)(a), near middle of second sentence after "base", deleted "year", deleted "The property owner may not appeal the yearly percentage adjustments that are specified in 15-7-111 and that may be made as a result of the sales assessment ratio study, the stratum, or area designations as specified in 15-7-111", and inserted last three sentences concerning what the Tax Appeal Board may consider as evidence, the Department's adjustment of valuation, and percentage adjustment based upon the sales assessment ratio study; inserted (6)(b) providing time for filing a declaratory judgment action; inserted (6)(c) concerning consolidation of actions; inserted (6)(d) prohibiting restraining order or injunction and providing for disposition of protested tax; and made minor change in style. Amendment effective April 27, 1991.

(Version effective January 1, 1994, but the effective date was changed to January 1, 1993, by sec. 2 and 3, Ch. 13, Sp. L. July 1992) In (3), in first sentence after "appraisal", inserted "as it reflects the market value of the property as determined by the department" and inserted second sentence concerning what may be considered as evidence in an objection to an appraisal; in (6), in second sentence after "base", deleted "year", deleted "The property owner may not appeal the yearly percentage adjustments that are specified in 15-7-111 and that may be made as a result of the sales assessment ratio study, the stratum, or area designations as specified in 15-7-111", and inserted last two sentences concerning what the Tax Appeal Board may consider as evidence and providing for Department adjustment of base value; deleted (7) that read: "(7) The percentage adjustments, stratum, and area designations must be adopted by administrative rule. An annual hearing must be held to accept testimony on the percentage adjustments, stratum, and area designations. The department shall present its findings and the proposed rules to the revenue oversight committee"; and made minor changes in style. Amendment effective January 1, 1994.

Applicability: Section 13(2), Ch. 680, L. 1991, provided that this section (version effective January 1, 1994, now effective January 1, 1993, pursuant to sec. 2 and 3, Ch. 13, Sp. L. July 1992) applies to all taxable years beginning after December 31, 1993. The applicability date was changed to taxable years beginning after December 31, 1992, by sec. 1, Ch. 13, Sp. L. July 1992.

Termination Date: Section 14, Ch. 680, L. 1991, provided that the amendments to this section made in sec. 1, Ch. 680, L. 1991, terminate December 31, 1993. The termination date was changed to December 31, 1992, by sec. 2, Ch. 13, Sp. L. July 1992. These amendments are reflected in the temporary version and the version effective July 1, 1993. The

version effective July 1, 1993, was deleted by sec. 2 and 3, Ch. 13, Sp. L. July 1992.

15-7-111. *(Temporary)* **Periodic revaluation of taxable property — publication of sales assessment ratio studies — appeal of revaluations — public hearing.** (1) The department of revenue shall administer and supervise a program for the revaluation of all taxable property within the state at least every 5 years. A comprehensive written reappraisal plan shall be promulgated by the department. The reappraisal plan adopted shall provide that all property in each county shall be revalued at least every 5 years. The department shall furnish a copy of the plan and all amendments to the plan to the board of county commissioners in each county.

(2) The new values determined during a revaluation cycle must be provided to the taxpayers at the end of the revaluation cycle but may not be placed on the tax rolls until 1 year following the completion of the revaluation cycle.

(3) A taxpayer shall appeal the new value in advance of its placement on the tax rolls by filing an appeal pursuant to 15-15-102 before the first Monday in June or 15 days after receiving notice of the new valuation amount, whichever is later, or be barred from appealing for untimeliness.

(4) (a) For the taxable year beginning January 1, 1990, and for every taxable year thereafter, the department shall conduct a stratified sales assessment ratio study of all residential land and improvements, agricultural 1-acre homesites and improvements, and commercial land and improvements. Residential improvements include condominiums but do not include mobile homes or housetrailers that are not taxed as an improvement as defined in 15-1-101. The sales assessment ratio based on property sales finalized and recorded by no later than November 1 must be used to determine appraisals for the immediately succeeding tax year.

(b) (i) For tax year 1991, if the result of the stratified sales assessment ratio study performed pursuant to subsection (4)(a) on residential property for tax year 1990 shows for any area an assessment level of less than 80%, the department shall perform a reappraisal of the residential property in the area. The reappraisal must be performed using a computer-assisted mass appraisal system based on the market approach to value, using comparable sales of similar property. If insufficient sales are available for market modeling, the department shall reappraise the property using the cost approach to value.

(ii) For tax year 1992, if the result of the stratified sales assessment ratio study performed pursuant to subsection (4)(a) on residential property for tax year 1991 shows for any area an assessment level of less than 80% or a coefficient of dispersion with respect to the value weighted mean ratio of more than 20%, rounded to the nearest 0.1%, and an adjustment multiplier of 1.01 or greater, the department shall perform a reappraisal of the residential property in the area. The reappraisal must be performed using the same criteria provided in subsection (4)(b)(i).

(iii) For tax year 1993, if the result of the stratified sales assessment ratio study performed pursuant to subsection (4)(a) on residential property for tax year 1992 shows for any area an adjustment multiplier of 1.01 or greater, the

department shall perform a reappraisal of the residential property in the area. The reappraisal must be performed using the same criteria provided in subsection (4)(b)(i).

(iv) For those areas subject to reappraisal under the provisions of subsection (4)(b)(i) for tax year 1992, the department shall compare the stratified sales assessment ratio study performed in 1991 to the 1991 assessed value to determine whether the area will be subject to further appraisal. If that comparison of residential property shows for the area a coefficient of dispersion with respect to the value weighted mean ratio of more than 20%, rounded to the nearest 0.1%, and an adjustment multiplier of 1.01 or greater, the department shall reappraise the area. The reappraisal must be performed using the same criteria provided in subsection (4)(b)(i).

(5) The study required in subsection (4) must be based on:

(a) commonly accepted statistical standards and methodology;

(b) a statistically valid sample of sales, using data from realty transfer certificates filed for up to 3 taxable years prior to the year the study is made, taking into account the dates of the included sales in the statistical analysis; and

(c) the assessments and sales for areas of the state that are economically, demographically, and geographically similar in order to determine the sales assessment ratios for a specific area.

(6) For purposes of conducting the study required by subsection (4), the department shall partition the state into as many as 100 areas for residential property and as many as 20 areas for commercial property. The areas must contain statistically sufficient numbers of sales and be as economically and demographically homogeneous as reasonably practicable.

(7) The department shall use the following procedure to validate sales information:

(a) Department staff who did not participate in the determination of appraised values are required to review the sales transactions evidenced by a realty transfer certificate. The review must be conducted to determine whether each sale used in the study was a valid, arm's-length transaction. Only valid, arm's-length sales may be used in the sales assessment ratio study.

(b) The sales information entered in the computer-assisted appraisal system is considered confidential, as provided in 15-7-308. However, the department shall annually publish a report containing the results of all sales assessment ratio studies done in each of the areas described in subsection (6). The report containing the results of the study must be made available to the public by request or by general disclosure.

(c) The department shall exclude from the sales assessment ratio study any parcels in which the improvements have been remodeled, reconstructed, or expanded between the time of the assessment and the time of the sales.

(d) The department shall exclude sales assessment ratios of less than 50% or greater than 200%.

(8) (a) The department shall have equalized property values throughout the state and may not make further adjustments to values under this section when the assessments for each stratum within each area identified in subsec-

tion (6) are rescaled to bring all ratios to within plus or minus 5% of common value 1 and when the sample size produces a standard error of less than 5%.

(b) Under the method described in subsection (8)(a), taxable property in each area is considered revalued for each tax year, based on the results of the sales assessment ratio study and the adjustments required by that study.

(c) Assessments in an area are considered equalized under subsection (8)(a) if the ratio for the area is within plus or minus 5% of common value 1.

(9) If the results of the stratified sales assessment ratio study required under this section show an increase in the percentage adjustment in excess of 10% in an area designation, the department shall conduct a public hearing in that area designation to present information showing the reasons for the increase. *(Terminates December 31, 1992—sec. 2, Ch. 13, Sp. L. July 1992.)*

15-7-111. *(Effective January 1, 1993)* **Periodic revaluation of taxable property.** (1) The department of revenue shall administer and supervise a program for the revaluation of all taxable property within the state. The department shall complete this revaluation program by December 31, 1996. A comprehensive written reappraisal plan must be promulgated by the department. The reappraisal plan adopted must provide that all property in each county be revalued by December 31, 1996. The department shall furnish a copy of the plan and all amendments to the plan to the board of county commissioners of each county.

(2) Beginning January 1, 1997, the department of revenue shall administer and supervise a program for the revaluation of all taxable property within the state at least every 3 years. A comprehensive written reappraisal plan must be promulgated by the department. The reappraisal plan adopted must provide that all property in each county be revalued at least every 3 years. The department shall furnish a copy of the plan and all amendments to the plan to the board of county commissioners of each county.

History: En. 84-429.14 by Sec. 1, Ch. 294, L. 1975; R.C.M. 1947, 84-429.14; amd. Sec. 1, Ch. 596, L. 1987; amd. Sec. 4, Ch. 613, L. 1987; amd. Sec. 2, Ch. 636, L. 1989; amd. Secs. 2, 8, Ch. 680, L. 1991; amd. Sec. 4, Ch. 13, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 13, Sp. L. July 1992, deleted version that was to be effective July 1, 1993.

(Version effective January 1, 1993) Inserted (1) requiring revaluation of all taxable property by December 31, 1996, and requiring that Department furnish a copy of the plan to each county's Board of County Commissioners; in (2), at beginning, inserted "Beginning January 1, 1997"; and made minor changes in style. Amendment effective August 6, 1992.

1991 Amendment: (Temporary version) In (4)(a) inserted second sentence concerning residential improvements; inserted (4)(b) concerning reappraisal based upon sales assessment ratio study for tax years 1991 through 1993; in (8)(a), after "ratios to", inserted "within plus or minus 5% of"; and inserted (9) concerning public hearing in an area based on certain results of sales assessment ratio study. Amendment effective April 27, 1991.

(Version effective July 1, 1993) In (2)(b)(i) and (2)(b)(ii), after "performed", the Code Commissioner deleted "pursuant to subsection (4)(a)" because the amendment in sec. 8, Ch. 680, L. 1991, rendered the reference erroneous. This version was deleted by sec. 4, Ch. 13, Sp. L. July 1992.

(Version effective January 1, 1994, but the effective date was changed to January 1, 1993, by sec. 2, 3, and 4, Ch. 13, Sp. L. July 1992) In two places reduced time of revaluation from 5 years to 3 years; and deleted (2) through (8) that read: "(2) The new values determined during a revaluation cycle must be provided to the taxpayers at the end of the revaluation cycle but may not be placed on the tax rolls until 1 year following the completion of the revaluation cycle.

(3) A taxpayer shall appeal the new value in advance of its placement on the tax rolls by filing an appeal pursuant to 15-15-102 before the first Monday in June or 15 days after receiving notice of the new valuation amount, whichever is later, or be barred from appealing for untimeliness.

(4) For the taxable year beginning January 1, 1990, and for every taxable year thereafter, the department shall conduct a stratified sales assessment ratio study of all residential land and improvements, agricultural 1-acre homesites and improvements, and commercial land and improvements. The sales assessment ratio based on property sales finalized and recorded by no later than November 1 must be used to determine appraisals for the immediately succeeding tax year.

(5) The study required in subsection (4) must be based on:

(a) commonly accepted statistical standards and methodology;

(b) a statistically valid sample of sales, using data from realty transfer certificates filed for up to 3 taxable years prior to the year the study is made, taking into account the dates of the included sales in the statistical analysis; and

(c) the assessments and sales for areas of the state that are economically, demographically, and geographically similar in order to determine the sales assessment ratios for a specific area.

(6) For purposes of conducting the study required by subsection (4), the department shall partition the state into as many as 100 areas for residential property and as many as 20 areas for commercial property. The areas must contain statistically sufficient numbers of sales and be as economically and demographically homogeneous as reasonably practicable.

(7) The department shall use the following procedure to validate sales information:

(a) Department staff who did not participate in the determination of appraised values are required to review the sales transactions evidenced by a realty transfer certificate. The review must be conducted to determine whether each sale used in the study was a valid, arm's-length transaction. Only valid, arm's-length sales may be used in the sales assessment ratio study.

(b) The sales information entered in the computer-assisted appraisal system is considered confidential, as provided in 15-7-308. However, the department shall annually publish a report containing the results of all sales assessment ratio studies done in each of the areas described in subsection (6). The report containing the results of the study must be made available to the public by request or by general disclosure.

(c) The department shall exclude from the sales assessment ratio study any parcels in which the improvements have been remodeled, reconstructed, or expanded between the time of the assessment and the time of the sales.

(d) The department shall exclude sales assessment ratios of less than 50% or greater than 200%.

(8) (a) The department shall have equalized property values throughout the state and may not make further adjustments to values under this section when the assessments for each stratum within each area identified in subsection (6) are rescaled to bring all ratios to common value 1 and when the sample size produces a standard error of less than 5%.

(b) Under the method described in subsection (8)(a), taxable property in each area is considered revalued for each tax year, based on the results of the sales assessment ratio study and the adjustments required by that study.

(c) Assessments in an area are considered equalized under subsection (8)(a) if the ratio for the area is within plus or minus 5% of common value 1". Amendment effective January 1, 1994.

Applicability: Section 13(1), Ch. 680, L. 1991, provided: "[Section 2] [temporary version] applies retroactively, within the meaning of 1-2-109, to property tax year 1991 and is applicable to taxable years 1992 and 1993."

Section 13(2), Ch. 680, L. 1991, provided that this section (version effective January 1, 1994, now effective January 1, 1993, pursuant to sec. 2, 3, and 4, Ch. 13, Sp. L. July 1992) applies to all taxable years beginning after December 31, 1993. The applicability date was changed to taxable years beginning after December 31, 1992, by sec. 1, Ch. 13, Sp. L. July 1992.

Termination Date: Section 14, Ch. 680, L. 1991, provided that the amendments to this section made in sec. 2, Ch. 680, L. 1991, terminate December 31, 1993. The termination date was changed to December 31, 1992, by sec. 2, Ch. 13, Sp. L. July 1992. These amendments are reflected in the temporary version and the version effective July 1, 1993. The version effective July 1, 1993, was deleted by sec. 4, Ch. 13, Sp. L. July 1992.

15-7-132. *(Temporary)* **Purpose.** (1) It is the purpose of 5-18-115 and 15-7-131 through 15-7-133 to provide an additional 2 years for completion of the current revaluation cycle, implemented pursuant to 15-7-111 through 15-7-114, in order to permit the department of revenue to comply with the revaluation requirements of 15-7-111 through 15-7-114 in a manner that implements the policy provided for in 15-7-131.

(2) It is not necessary for the department to commence another revaluation cycle until January 1, 1993. *(Repealed effective July 1, 1993—sec. 10, Ch. 680, L. 1991.)*

History: En. Sec. 2, Ch. 13, L. 1989; amd. Sec. 5, Ch. 13, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 13, Sp. L. July 1992, in (2) substituted "revaluation cycle" for "5-year revaluation cycle pursuant to 15-7-111". Amendment effective August 6, 1992.

15-7-133. *(Temporary)* **Extension of current revaluation cycle.** (1) Notwithstanding the provisions of 15-7-111 through 15-7-114, the current revaluation cycle, implementing 15-7-111, scheduled to end on December 31, 1990, and representing a 5-year period commencing January 1, 1986, is hereby extended for an additional 2 years, ending December 31, 1992. The new values determined during this period must be placed on the tax rolls in the year immediately following the completion of the revaluation cycle.

(2) It is not necessary for the department to commence another revaluation cycle pursuant to 15-7-111 until January 1, 1993.

(3) The extension provided for in subsection (1) does not affect the validity of any assessment made or any taxes levied during the period from January 1, 1986, to December 31, 1992. *(Repealed effective July 1, 1993—sec. 10, Ch. 680, L. 1991.)*

History: En. Sec. 3, Ch. 13, L. 1989; amd. Sec. 6, Ch. 13, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 13, Sp. L. July 1992, in (1), at end of last sentence, substituted "in the year immediately following the completion of the revaluation cycle" for "in accordance with 15-7-111(2)"; and in (2), before "revaluation cycle", deleted "5-year". Amendment effective August 6, 1992.

Cross-References

Department of Revenue to report revaluation progress to Revenue Oversight Committee, 5-18-115.

Extension of class three land reappraisal cycle, 15-7-134.

15-7-134. Extension of reappraisal cycle for class three land. Notwithstanding any other provisions of this code, the reappraisal cycle for class three land commencing January 1, 1986, must be extended to December 31, 1993. The new values determined during this period must be placed on the tax rolls in the year immediately following the completion of the revaluation cycle for class three land.

History: En. Sec. 7, Ch. 13, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 8, Ch. 13, Sp. L. July 1992, provided that this section is effective on passage and approval. Approved August 6, 1992.

CHAPTER 10

PROPERTY TAX LEVIES

Part 4

Limitation on Property Taxes

15-10-412. *(Temporary)* **Property tax limited to 1986 levels — clarification — extension to all property classes.** Section 15-10-402 is interpreted and clarified as follows:

(1) The limitation to 1986 levels is extended to apply to all classes of property described in Title 15, chapter 6, part 1.

(2) The limitation on the amount of taxes levied is interpreted to mean that, except as otherwise provided in this section, the actual tax liability for an individual property is capped at the dollar amount due in each taxing unit for the 1986 tax year. In tax years thereafter, the property must be taxed in each taxing unit at the 1986 cap or the product of the taxable value and mills levied, whichever is less for each taxing unit, except in a taxing unit that levied a tax in tax years 1983 through 1985 but did not levy a tax in 1986, in which case the actual tax liability for an individual property is capped at the dollar amount due in that taxing unit for the 1985 tax year.

(3) The limitation on the amount of taxes levied does not mean that no further increase may be made in the total taxable valuation of a taxing unit as a result of:

(a) annexation of real property and improvements into a taxing unit;

(b) construction, expansion, or remodeling of improvements;

(c) transfer of property into a taxing unit;

(d) subdivision of real property;

(e) reclassification of property;

(f) increases in the amount of production or the value of production for property described in 15-6-131 or 15-6-132;

(g) transfer of property from tax-exempt to taxable status;

(h) revaluations caused by:

(i) cyclical reappraisal; or

(ii) expansion, addition, replacement, or remodeling of improvements; or

(i) increases in property valuation pursuant to 15-7-111(4) through (8) in order to equalize property values annually.

(4) The limitation on the amount of taxes levied does not mean that no further increase may be made in the taxable valuation or in the actual tax liability on individual property in each class as a result of:

(a) a revaluation caused by:

(i) construction, expansion, replacement, or remodeling of improvements that adds value to the property; or

(ii) cyclical reappraisal;

(b) transfer of property into a taxing unit;

(c) reclassification of property;

(d) increases in the amount of production or the value of production for property described in 15-6-131 or 15-6-132;

(e) annexation of the individual property into a new taxing unit;

(f) conversion of the individual property from tax-exempt to taxable status; or

(g) increases in property valuation pursuant to 15-7-111(4) through (8) in order to equalize property values annually.

(5) Property in classes four and eleven is valued according to the procedures used in 1986, including the designation of 1982 as the base year, until the reappraisal cycle beginning January 1, 1986, is completed and new valuations are placed on the tax rolls and a new base year designated, if the property is:

(a) new construction;

(b) expanded, deleted, replaced, or remodeled improvements;

(c) annexed property; or

(d) property converted from tax-exempt to taxable status.

(6) Property described in subsections (5)(a) through (5)(d) that is not class four or class eleven property is valued according to the procedures used in 1986 but is also subject to the dollar cap in each taxing unit based on 1986 mills levied.

(7) The limitation on the amount of taxes, as clarified in this section, is intended to leave the property appraisal and valuation methodology of the department of revenue intact. Determinations of county classifications, salaries of local government officers, and all other matters in which total taxable valuation is an integral component are not affected by 15-10-401 and 15-10-402 except for the use of taxable valuation in fixing tax levies. In fixing tax levies, the taxing units of local government may anticipate the deficiency in revenues resulting from the tax limitations in 15-10-401 and 15-10-402, while understanding that regardless of the amount of mills levied, a taxpayer's liability may not exceed the dollar amount due in each taxing unit for the 1986 tax year unless:

(a) the taxing unit's taxable valuation decreases by 5% or more from the 1986 tax year. If a taxing unit's taxable valuation decreases by 5% or more from the 1986 tax year, it may levy additional mills to compensate for the decreased taxable valuation, but in no case may the mills levied exceed a number calculated to equal the revenue from property taxes for the 1986 tax year in that taxing unit.

(b) a levy authorized under Title 20 raised less revenue in 1986 than was raised in either 1984 or 1985, in which case the taxing unit may, after approval by the voters in the taxing unit, raise each year thereafter an additional number of mills but may not levy more revenue than the 3-year average of revenue raised for that purpose during 1984, 1985, and 1986;

(c) a levy authorized in 50-2-111 that was made in 1986 was for less than the number of mills levied in either 1984 or 1985, in which case the taxing unit may, after approval by the voters in the taxing unit, levy each year thereafter an additional number of mills but may not levy more than the 3-year average number of mills levied for that purpose during 1984, 1985, and 1986.

(8) The limitation on the amount of taxes levied does not apply to the following levy or special assessment categories, whether or not they are based on commitments made before or after approval of 15-10-401 and 15-10-402:

(a) rural improvement districts;

(b) special improvement districts;

(c) levies pledged for the repayment of bonded indebtedness, including tax increment bonds;

(d) city street maintenance districts;

(e) tax increment financing districts;

(f) satisfaction of judgments against a taxing unit;

(g) street lighting assessments;

(h) revolving funds to support any categories specified in this subsection (8);

(i) levies for economic development authorized pursuant to 90-5-112(4);

(j) levies authorized under 7-6-502 for juvenile detention programs; and

(k) elementary and high school districts.

(9) The limitation on the amount of taxes levied does not apply in a taxing unit if the voters in the taxing unit approve an increase in tax liability following a resolution of the governing body of the taxing unit containing:

(a) a finding that there are insufficient funds to adequately operate the taxing unit as a result of 15-10-401 and 15-10-402;

(b) an explanation of the nature of the financial emergency;

(c) an estimate of the amount of funding shortfall expected by the taxing unit;

(d) a statement that applicable fund balances are or by the end of the fiscal year will be depleted;

(e) a finding that there are no alternative sources of revenue;

(f) a summary of the alternatives that the governing body of the taxing unit has considered; and

(g) a statement of the need for the increased revenue and how it will be used.

(10) (a) The limitation on the amount of taxes levied does not apply to levies required to address the funding of relief of suffering of inhabitants caused by famine, conflagration, or other public calamity.

(b) The limitation set forth in this chapter on the amount of taxes levied does not apply to levies to support:

(i) a city-county board of health as provided in Title 50, chapter 2, if the governing bodies of the taxing units served by the board of health determine, after a public hearing, that public health programs require funds to ensure the public health. A levy for the support of a local board of health may not exceed the 5-mill limit established in 50-2-111.

(ii) county, city, or town ambulance services authorized by a vote of the electorate under 7-34-102(2).

(11) The limitation on the amount of taxes levied by a taxing jurisdiction subject to a statutory maximum mill levy does not prevent a taxing jurisdiction from increasing its number of mills beyond the statutory maximum mill levy to produce revenue equal to its 1986 revenue.

(12) The limitation on the amount of taxes levied does not apply to a levy increase to repay taxes paid under protest in accordance with 15-1-402.

15-10-412. *(Effective January 1, 1993)* **Property tax limited to 1986 levels — clarification — extension to all property classes.** Section 15-10-402 is interpreted and clarified as follows:

(1) The limitation to 1986 levels is extended to apply to all classes of property described in Title 15, chapter 6, part 1.

(2) The limitation on the amount of taxes levied is interpreted to mean that, except as otherwise provided in this section, the actual tax liability for an individual property is capped at the dollar amount due in each taxing unit for the 1986 tax year. In tax years thereafter, the property must be taxed in each taxing unit at the 1986 cap or the product of the taxable value and mills levied, whichever is less for each taxing unit, except in a taxing unit that levied a tax in tax years 1983 through 1985 but did not levy a tax in 1986, in which case the actual tax liability for an individual property is capped at the dollar amount due in that taxing unit for the 1985 tax year.

(3) The limitation on the amount of taxes levied does not mean that no further increase may be made in the total taxable valuation of a taxing unit as a result of:

(a) annexation of real property and improvements into a taxing unit;

(b) construction, expansion, or remodeling of improvements;

(c) transfer of property into a taxing unit;

(d) subdivision of real property;

(e) reclassification of property;

(f) increases in the amount of production or the value of production for property described in 15-6-131 or 15-6-132;

(g) transfer of property from tax-exempt to taxable status; or

(h) revaluations caused by:

(i) cyclical reappraisal; or

(ii) expansion, addition, replacement, or remodeling of improvements.

(4) The limitation on the amount of taxes levied does not mean that no further increase may be made in the taxable valuation or in the actual tax liability on individual property in each class as a result of:

(a) a revaluation caused by:

(i) construction, expansion, replacement, or remodeling of improvements that adds value to the property; or

(ii) cyclical reappraisal;

(b) transfer of property into a taxing unit;

(c) reclassification of property;

(d) increases in the amount of production or the value of production for property described in 15-6-131 or 15-6-132;

(e) annexation of the individual property into a new taxing unit; or

(f) conversion of the individual property from tax-exempt to taxable status.

(5) Property in classes four and eleven is valued according to the procedures used in 1986, including the designation of 1982 as the base year, until the reappraisal cycle beginning January 1, 1986, is completed and new

valuations are placed on the tax rolls and a new base year designated, if the property is:

(a) new construction;

(b) expanded, deleted, replaced, or remodeled improvements;

(c) annexed property; or

(d) property converted from tax-exempt to taxable status.

(6) Property described in subsections (5)(a) through (5)(d) that is not class four or class eleven property is valued according to the procedures used in 1986 but is also subject to the dollar cap in each taxing unit based on 1986 mills levied.

(7) The limitation on the amount of taxes, as clarified in this section, is intended to leave the property appraisal and valuation methodology of the department of revenue intact. Determinations of county classifications, salaries of local government officers, and all other matters in which total taxable valuation is an integral component are not affected by 15-10-401 and 15-10-402 except for the use of taxable valuation in fixing tax levies. In fixing tax levies, the taxing units of local government may anticipate the deficiency in revenues resulting from the tax limitations in 15-10-401 and 15-10-402, while understanding that regardless of the amount of mills levied, a taxpayer's liability may not exceed the dollar amount due in each taxing unit for the 1986 tax year unless:

(a) the taxing unit's taxable valuation decreases by 5% or more from the 1986 tax year. If a taxing unit's taxable valuation decreases by 5% or more from the 1986 tax year, it may levy additional mills to compensate for the decreased taxable valuation, but in no case may the mills levied exceed a number calculated to equal the revenue from property taxes for the 1986 tax year in that taxing unit.

(b) a levy authorized under Title 20 raised less revenue in 1986 than was raised in either 1984 or 1985, in which case the taxing unit may, after approval by the voters in the taxing unit, raise each year thereafter an additional number of mills but may not levy more revenue than the 3-year average of revenue raised for that purpose during 1984, 1985, and 1986;

(c) a levy authorized in 50-2-111 that was made in 1986 was for less than the number of mills levied in either 1984 or 1985, in which case the taxing unit may, after approval by the voters in the taxing unit, levy each year thereafter an additional number of mills but may not levy more than the 3-year average number of mills levied for that purpose during 1984, 1985, and 1986.

(8) The limitation on the amount of taxes levied does not apply to the following levy or special assessment categories, whether or not they are based on commitments made before or after approval of 15-10-401 and 15-10-402:

(a) rural improvement districts;

(b) special improvement districts;

(c) levies pledged for the repayment of bonded indebtedness, including tax increment bonds;

(d) city street maintenance districts;

(e) tax increment financing districts;

(f) satisfaction of judgments against a taxing unit;

(g) street lighting assessments;

(h) revolving funds to support any categories specified in this subsection (8);

(i) levies for economic development authorized pursuant to 90-5-112(4);

(j) levies authorized under 7-6-502 for juvenile detention programs; and

(k) elementary and high school districts.

(9) The limitation on the amount of taxes levied does not apply in a taxing unit if the voters in the taxing unit approve an increase in tax liability following a resolution of the governing body of the taxing unit containing:

(a) a finding that there are insufficient funds to adequately operate the taxing unit as a result of 15-10-401 and 15-10-402;

(b) an explanation of the nature of the financial emergency;

(c) an estimate of the amount of funding shortfall expected by the taxing unit;

(d) a statement that applicable fund balances are or by the end of the fiscal year will be depleted;

(e) a finding that there are no alternative sources of revenue;

(f) a summary of the alternatives that the governing body of the taxing unit has considered; and

(g) a statement of the need for the increased revenue and how it will be used.

(10) (a) The limitation on the amount of taxes levied does not apply to levies required to address the funding of relief of suffering of inhabitants caused by famine, conflagration, or other public calamity.

(b) The limitation set forth in this chapter on the amount of taxes levied does not apply to levies to support:

(i) a city-county board of health as provided in Title 50, chapter 2, if the governing bodies of the taxing units served by the board of health determine, after a public hearing, that public health programs require funds to ensure the public health. A levy for the support of a local board of health may not exceed the 5-mill limit established in 50-2-111.

(ii) county, city, or town ambulance services authorized by a vote of the electorate under 7-34-102(2).

(11) The limitation on the amount of taxes levied by a taxing jurisdiction subject to a statutory maximum mill levy does not prevent a taxing jurisdiction from increasing its number of mills beyond the statutory maximum mill levy to produce revenue equal to its 1986 revenue.

(12) The limitation on the amount of taxes levied does not apply to a levy increase to repay taxes paid under protest in accordance with 15-1-402.

History: En. Sec. 2, Ch. 654, L. 1987; amd. Sec. 2, Ch. 213, L. 1989; amd. Sec. 3, Ch. 636, L. 1989; amd. Sec. 1, Ch. 662, L. 1989; amd. Sec. 1, Ch. 5, Sp. L. June 1989; amd. Sec. 1, Ch. 6, Sp. L. June 1989; amd. Sec. 1, Ch. 7, Sp. L. June 1989; amd. Sec. 3, Ch. 11, Sp. L. June 1989; amd. Sec. 2, Ch. 668, L. 1991; amd. Sec. 9, Ch. 680, L. 1991; amd. Sec. 4, Ch. 745, L. 1991; amd. Sec. 12, Ch. 773, L. 1991.

Compiler's Comments

1991 Amendments: Chapter 668 inserted (10)(b)(ii) concerning county, city, or town ambulance services authorized by vote of electorate. Amendment effective April 26, 1991.

Chapter 680 deleted (3)(i) and (4)(g) that read: "increases in property valuation pursuant to 15-7-111(4) through (8) in order to equalize property values annually"; and made minor changes in style. Amendment effective July 1, 1993, but the effective date was

changed to January 1, 1993, by sec. 3, Ch. 13, Sp. L. July 1992.

Chapter 745 inserted (8)(j) regarding levies for juvenile detention programs; and made minor changes in style. Amendment effective July 1, 1991.

Chapter 773 in (5) and (6), after "four", deleted reference to class twelve and substituted reference to class eleven for reference to class fourteen. Amendment effective May 15, 1991.

Applicability: Section 13(2), Ch. 680, L. 1991, provided that this section applies to all taxable years beginning after December 31, 1993. The applicability date was changed to taxable years beginning after December 31, 1992, by sec. 1, Ch. 13, Sp. L. July 1992.

Section 18(1), Ch. 773, L. 1991, provided that the 1991 amendment to this section applies to tax years beginning on or after January 1, 1992.

CHAPTER 23

CENTRALLY ASSESSED PROPERTY

Part 1

General Provisions

15-23-101. Properties centrally assessed. The department of revenue shall centrally assess each year:

(1) the franchise, roadway, roadbeds, rails, rolling stock, and all other operating property of railroads and railroad car companies operating in more than one county in the state or more than one state;

(2) property owned by a corporation or other person operating a single and continuous property operated in more than one county or more than one state, including telegraph, telephone, microwave, electric power or transmission lines; natural gas or oil pipelines; canals, ditches, flumes, or like properties and including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, property constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives);

(3) all property of scheduled airlines;

(4) the net proceeds of mines and of oil and gas wells;

(5) the gross proceeds of coal mines; and

(6) property described in subsections (1) and (2) which is subject to the provisions of Title 15, chapter 24, part 12.

History: En. 84-7801 by Sec. 1, Ch. 98, L. 1977; R.C.M. 1947, 84-7801; amd. Sec. 4, Ch. 686, L. 1979; amd. Sec. 3, Ch. 478, L. 1981; amd. Sec. 4, Ch. 683, L. 1983; amd. Sec. 2, Ch. 10, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 10, Sp. L. July 1992, in (1) inserted reference to railroad car companies.

Transition: Section 13, Ch. 10, Sp. L. July 1992, provided: "(1) On or before October 31, 1992, each railroad car company shall submit to the department of revenue the information needed to make an assessment and to compute the tax for tax year 1991. The department shall use the average levy for this computation and shall notify the railroad car companies of the

amount of the taxes due. Taxes are due and payable within 30 days after the tax notice is postmarked.

(2) Any freight line company license taxes paid by or on behalf of a railroad car company in 1992 for taxes owed under the provisions of Title 15, chapter 55, for tax year 1991 must be credited against the tax owed by the company under [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. If the tax paid under Title 15, chapter 55, exceeds the amount of tax owed under [sections 7 through 13] [15-23-211 through 15-23-216 and this section], the state treasurer shall refund the difference without interest.

(3) On or before October 31, 1992, each railroad car company shall submit to the department the information needed to make the assessment and to compute the tax for tax year 1992, as provided for in [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes owed. The taxes for 1992 are due and payable within 30 days after the tax notice is postmarked."

Effective Date — Retroactive Applicability: Section 17, Ch. 10, Sp. L. July 1992, provided: "[This act] is effective on passage and approval [approved August 6, 1992] and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1990."

Termination: Section 18, Ch. 10, Sp. L. July 1992, provided that sec. 13, Ch. 10, Sp. L. July 1992, an uncodified transition section, terminates January 1, 1994.

Composite of 1981 Amendment and Effective Date: Section 4, Ch. 478, L. 1981, provided: "This act is not effective until congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy." The Code Commissioner has composited this effective date with the substantive amendment made by sec. 3, Ch. 478, L. 1981, in subsection (2). In the composite the Code Commissioner has substituted "if" for "This act is not effective until" to reflect the substance of the effective date within the code section.

15-23-103. Due date of reports and returns — extensions. (1) Except as provided in subsection (2) and 15-23-602, each report or return described in 15-23-301, 15-23-402, 15-23-502, or 15-23-701 shall be delivered to the department on or before March 31 each year.

(2) Each report or return for a natural gas or oil pipeline described in 15-23-301 must be delivered to the department on or before April 15 each year.

(3) Each report described in 15-23-201, 15-23-212, 15-23-515, or 15-23-516 must be delivered to the department before April 15 each year.

(4) The department may for good cause extend the time for filing a return or report for not more than 30 days.

History: En. 84-7803 by Sec. 3, Ch. 98, L. 1977; amd. Sec. 2, Ch. 494, L. 1977; R.C.M. 1947, 84-7803; amd. Sec. 1, Ch. 606, L. 1983; amd. Sec. 5, Ch. 531, L. 1989; amd. Sec. 5, Ch. 695, L. 1991; amd. Sec. 3, Ch. 10, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 10, Sp. L. July 1992, in (2) inserted reference to 15-23-212.

Transition: Section 13, Ch. 10, Sp. L. July 1992, provided: "(1) On or before October 31, 1992, each railroad car company shall submit to the department of revenue the information needed to make an assessment and to compute the tax for tax year 1991. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes due. Taxes are due and payable within 30 days after the tax notice is postmarked.

(2) Any freight line company license taxes paid by or on behalf of a railroad car company in 1992 for taxes owed under the provisions of Title 15, chapter 55, for tax year 1991 must be credited against the tax owed by the company under [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. If the tax paid under Title 15, chapter 55, exceeds the amount of tax owed under [sections 7 through 13] [15-23-211 through 15-23-216 and this section], the state treasurer shall refund the difference without interest.

(3) On or before October 31, 1992, each railroad car company shall submit to the department the information needed to make the assessment and to compute the tax for tax year 1992, as provided for in [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. The department shall use the average levy for this computation and shall notify the railroad car companies of the

amount of the taxes owed. The taxes for 1992 are due and payable within 30 days after the tax notice is postmarked."

Effective Date — Retroactive Applicability: Section 17, Ch. 10, Sp. L. July 1992, provided: "[This act] is effective on passage and approval [approved August 6, 1992] and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1990."

Termination: Section 18, Ch. 10, Sp. L. July 1992, provided that sec. 13, Ch. 10, Sp. L. July 1992, an uncodified transition section, terminates January 1, 1994.

1991 Amendment: In (3) inserted reference to 15-23-516; and made minor changes in style. Amendment effective April 27, 1991.

Effective Date — Retroactive Applicability: Section 15, Ch. 695, L. 1991, provided: "[This act] is effective on passage and approval [approved April 27, 1991] and, except as provided in subsection (2), applies retroactively, within the meaning of 1-2-109, to production years beginning after December 31, 1990.

(2) [Section 10] [amending 15-23-515] applies retroactively, within the meaning of 1-2-109, to talc produced after December 31, 1989."

15-23-104. Failure to file — estimate by department — penalty. (1) If any person fails to file a report or return within the time established in 15-23-103 or by such later date as the department may approve, the department shall estimate the value of the property to have been reported on the basis of the best available information. In estimating the value of the net proceeds of mines, the department shall proceed under 15-23-506, and in estimating the value of the gross proceeds of coal mines, the department shall proceed under 15-35-107. In estimating the value of all other property subject to assessment under parts 2 through 4 of this chapter, the department shall proceed under 15-1-303. In estimating value under this section, the department may subpoena a person or his agent as specified in 15-1-302. An assessment pursuant to parts 5 through 8 of this chapter based on estimated value or imputed value is subject to review under 15-1-211. Each month or part of a month a report is delinquent, the department shall impose and collect a $25 penalty, the total not to exceed $200, and shall deposit such penalty to the credit of the general fund. The department will also inform its agents in the counties of the delinquency, and, except as provided in subsection (2), the agents shall assess a penalty of 1% of the tax due for each month or part of a month the report is delinquent.

(2) For a delinquency in reporting under 15-23-212, the department shall assess a penalty of 1% of the tax due for each month or part of a month that the report is delinquent.

History: En. 84-7804 by Sec. 4, Ch. 98, L. 1977; R.C.M. 1947, 84-7804; amd. Sec. 2, Ch. 606, L. 1983; amd. Sec. 3, Ch. 357, L. 1985; amd. Sec. 6, Ch. 811, L. 1991; amd. Sec. 4, Ch. 10, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 10, Sp. L. July 1992, near end of (1) inserted exception clause; and inserted (2) concerning delinquencies under 15-23-212.

Transition: Section 13, Ch. 10, Sp. L. July 1992, provided: "(1) On or before October 31, 1992, each railroad car company shall submit to the department of revenue the information needed to make an assessment and to compute the tax for tax year 1991. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes due. Taxes are due and payable within 30 days after the tax notice is postmarked.

(2) Any freight line company license taxes paid by or on behalf of a railroad car company in 1992 for taxes owed under the provisions of Title 15, chapter 55, for tax year 1991 must be credited against the tax owed by the company under [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. If the tax paid under Title 15, chapter 55, exceeds the amount of tax owed under [sections 7 through 13] [15-23-211 through 15-23-216 and this section], the state treasurer shall refund the difference without interest.

(3) On or before October 31, 1992, each railroad car company shall submit to the department the information needed to make the assessment and to compute the tax for tax year 1992, as provided for in [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes owed. The taxes for 1992 are due and payable within 30 days after the tax notice is postmarked."

Effective Date — Retroactive Applicability: Section 17, Ch. 10, Sp. L. July 1992, provided: "[This act] is effective on passage and approval [approved August 6, 1992] and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1990."

Termination: Section 18, Ch. 10, Sp. L. July 1992, provided that sec. 13, Ch. 10, Sp. L. July 1992, an uncodified transition section, terminates January 1, 1994.

1991 Amendment: At end of fourth sentence substituted "15-1-211" for "15-8-601".

Applicability: Section 31, Ch. 811, L. 1991, provided: "[This act] applies to requests for refunds received by and the notices of additional tax issued by the department of revenue pursuant to [section 1] [15-1-211] after December 31, 1991."

15-23-105. Apportionment among counties. The department shall apportion the value of property assessed under 15-23-101, 15-23-202, or 15-23-403, other than railroad car company property, among the counties in which such property is located. Apportionment shall be on a mileage basis or on the basis of the original installed cost of the centrally assessed property located in the respective counties. If the property is of such a character that its value cannot reasonably be apportioned on the basis of mileage or on the basis of the original installed cost of the centrally assessed property located in the respective counties, the department may adopt such other method or basis of apportionment as may be just or proper.

History: En. 84-7805 by Sec. 5, Ch. 98, L. 1977; R.C.M. 1947, 84-7805; amd. Sec. 5, Ch. 686, L. 1979; amd. Sec. 5, Ch. 10, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 10, Sp. L. July 1992, in first sentence inserted "other than railroad car company property".

Transition: Section 13, Ch. 10, Sp. L. July 1992, provided: "(1) On or before October 31, 1992, each railroad car company shall submit to the department of revenue the information needed to make an assessment and to compute the tax for tax year 1991. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes due. Taxes are due and payable within 30 days after the tax notice is postmarked.

(2) Any freight line company license taxes paid by or on behalf of a railroad car company in 1992 for taxes owed under the provisions of Title 15, chapter 55, for tax year 1991 must be credited against the tax owed by the company under [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. If the tax paid under Title 15, chapter 55, exceeds the amount of tax owed under [sections 7 through 13] [15-23-211 through 15-23-216 and this section], the state treasurer shall refund the difference without interest.

(3) On or before October 31, 1992, each railroad car company shall submit to the department the information needed to make the assessment and to compute the tax for tax year 1992, as provided for in [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes owed. The taxes for 1992 are due and payable within 30 days after the tax notice is postmarked."

Effective Date — Retroactive Applicability: Section 17, Ch. 10, Sp. L. July 1992, provided: "[This act] is effective on passage and approval [approved August 6, 1992] and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1990."

Termination: Section 18, Ch. 10, Sp. L. July 1992, provided that sec. 13, Ch. 10, Sp. L. July 1992, an uncodified transition section, terminates January 1, 1994.

Part 2

Railroads

15-23-201. Assessment of railroads. The president, secretary, or managing agent or such other officer as the department of revenue may designate of any corporation and each person or association of persons owning or operating any railroad in more than one county in this state or more than one state must on or before April 15 each year furnish the department a statement signed and sworn to by one of such officers or by the person or one of the persons forming such association, showing in detail for the year ending December 31 immediately preceding:

(1) the whole number of miles of railroad in the state and, where the line is partly out of the state, the whole number of miles without the state and the whole number within the state, owned or operated by such corporation, person, or association;

(2) the value of the roadway, roadbed, and rails of the whole railroad and the value of the same within the state;

(3) the width of the right-of-way;

(4) the number of each kind of all rolling stock used by such corporation, person, or association in operating the entire railroad, including the part without the state;

(5) the number, kind, and value of rolling stock owned and operated in the state;

(6) the number, kind, and value of rolling stock used in the state but not owned by the party making the returns;

(7) the number, kind, and value of rolling stock owned but used out of the state, either upon divisions of road operated by the party making the returns or by and upon other railroads;

(8) the whole number of sidetracks in each county, including the number of miles of track in each railroad yard in the state;

(9) the number of each kind of rolling stock used in operating the entire railroad, including the part without the state, which must include a detailed statement of the number and value thereof of all engines; passenger, mail, express, baggage, freight, and other cars; or property owned or leased by such corporation, person, or association;

(10) the number of sleeping and dining cars not owned by such corporation, person, or association but used in operating the railroads of such corporation, person, or association in the state or on the line of the road without the state during each month of the year for which the return is made; also the number of miles each month the cars have been run or operated within and without the state;

(11) a description of the road, giving the points of entrance into and the points of exit from each county, with a statement of the number of miles in each county. When a description of the road has once been given, no other annual description thereof is necessary unless the road has been changed. Whenever the road or any portion of the road is advertised to be sold or is sold

for taxes, either state or county, no other description is necessary than that given by, and the same is conclusive upon, the person, corporation, or association giving the description. No assessment is invalid on account of a misdescription of the railroad or the right-of-way for the same. If such statement is not furnished as above provided, the assessment made by the department upon the property of the corporation, person, or association failing to furnish the statement is conclusive and final.

(12) the gross earnings of the entire road;

(13) the gross earnings of the road within the state and, if the railroad is let to other operators, how much was derived by the lessor as rental;

(14) the cost of operating the entire road, exclusive of sinking fund, expenses of land department, and money paid to the United States;

(15) net income for such year and amount of dividend declared;

(16) capital stock authorized;

(17) capital stock paid in;

(18) funded debt;

(19) number of shares authorized;

(20) number of shares of stock issued;

(21) number, kind, and total number of miles traveled within the state by railroad cars owned by railroad car companies; and

(22) any other facts the department may require.

History: En. Sec. 1675, 5th Div. Comp. Stat. 1887; amd. Sec. 43, p. 87, L. 1891; re-en. Sec. 3737, Pol. C. 1895; re-en. Sec. 2556, Rev. C. 1907; re-en. Sec. 2131, R.C.M. 1921; Cal. Pol. C. Sec. 3664; amd. Sec. 1, Ch. 7, L. 1925; re-en. Sec. 2131, R.C.M. 1935; amd. Sec. 23, Ch. 516, L. 1973; amd. Sec. 10, Ch. 98, L. 1977; amd. Sec. 1, Ch. 494, L. 1977; R.C.M. 1947, 84-801; amd. Sec. 6, Ch. 10, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 10, Sp. L. July 1992, inserted (21) concerning railroad cars.

Transition: Section 13, Ch. 10, Sp. L. July 1992, provided: "(1) On or before October 31, 1992, each railroad car company shall submit to the department of revenue the information needed to make an assessment and to compute the tax for tax year 1991. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes due. Taxes are due and payable within 30 days after the tax notice is postmarked.

(2) Any freight line company license taxes paid by or on behalf of a railroad car company in 1992 for taxes owed under the provisions of Title 15, chapter 55, for tax year 1991 must be credited against the tax owed by the company under [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. If the tax paid under Title 15, chapter 55, exceeds the amount of tax owed under [sections 7 through 13] [15-23-211 through 15-23-216 and this section], the state treasurer shall refund the difference without interest.

(3) On or before October 31, 1992, each railroad car company shall submit to the department the information needed to make the assessment and to compute the tax for tax year 1992, as provided for in [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes owed. The taxes for 1992 are due and payable within 30 days after the tax notice is postmarked."

Effective Date — Retroactive Applicability: Section 17, Ch. 10, Sp. L. July 1992, provided: "[This act] is effective on passage and approval [approved August 6, 1992] and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1990."

Termination: Section 18, Ch. 10, Sp. L. July 1992, provided that sec. 13, Ch. 10, Sp. L. July 1992, an uncodified transition section, terminates January 1, 1994.

15-23-211. Definitions. As used in 15-23-211 through 15-23-216, unless the context requires otherwise, the following definitions apply:

(1) "Average levy" means the rate of taxation determined under 15-24-103.

(2) "Person" includes an individual, firm, association, company, partnership, corporation, joint-stock company, agency, syndicate, or cooperative.

(3) "Private railroad cars" means all railroad cars that:

(a) are not owned by a railroad company operating in this state;

(b) are used for transporting persons or freight; and

(c) are not otherwise assessed for property taxation in this state.

(4) "Railroad car company" means any person, other than a railroad company, engaged in operating, leasing, or furnishing private railroad cars, whether or not owned by that person, for the transportation of persons or freight over railroad lines located wholly or partially within this state.

History: En. Sec. 7, Ch. 10, Sp. L. July 1992.

Compiler's Comments

Transition: Section 13, Ch. 10, Sp. L. July 1992, provided: "(1) On or before October 31, 1992, each railroad car company shall submit to the department of revenue the information needed to make an assessment and to compute the tax for tax year 1991. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes due. Taxes are due and payable within 30 days after the tax notice is postmarked.

(2) Any freight line company license taxes paid by or on behalf of a railroad car company in 1992 for taxes owed under the provisions of Title 15, chapter 55, for tax year 1991 must be credited against the tax owed by the company under [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. If the tax paid under Title 15, chapter 55, exceeds the amount of tax owed under [sections 7 through 13] [15-23-211 through 15-23-216 and this section], the state treasurer shall refund the difference without interest.

(3) On or before October 31, 1992, each railroad car company shall submit to the department the information needed to make the assessment and to compute the tax for tax year 1992, as provided for in [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes owed. The taxes for 1992 are due and payable within 30 days after the tax notice is postmarked."

Effective Date — Retroactive Applicability: Section 17, Ch. 10, Sp. L. July 1992, provided: "[This act] is effective on passage and approval [approved August 6, 1992] and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1990."

Termination: Section 18, Ch. 10, Sp. L. July 1992, provided that sec. 13, Ch. 10, Sp. L. July 1992, an uncodified transition section, terminates January 1, 1994.

15-23-212. Annual report. Each railroad car company shall, annually and within the time requirements of 15-23-103(3) and (4), file with the department of revenue a report, signed and sworn to by one of its designated officers, that provides the following information as of the preceding December 31:

(1) the name and nature of the business of the company;

(2) the number, kind, acquisition cost, date of acquisition, and name of owner of its private railroad cars;

(3) the cost of additions and betterment, special equipment, racks, protective equipment, or any other modification or improvement to a car since acquisition;

(4) the total car miles traveled, loaded and unloaded, within the state during the calendar year preceding the date of filing;

(5) the total car miles traveled, loaded and unloaded, within and outside of the state during the calendar year preceding the date of filing;

(6) the average number of miles traveled by each class of car during the year;

(7) the description and location of real and personal property that is owned by the railroad car company and that is subject to taxation within this state; and

(8) any other facts the department may require.

History: En. Sec. 8, Ch. 10, Sp. L. July 1992.

Compiler's Comments

Transition: Section 13, Ch. 10, Sp. L. July 1992, provided: "(1) On or before October 31, 1992, each railroad car company shall submit to the department of revenue the information needed to make an assessment and to compute the tax for tax year 1991. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes due. Taxes are due and payable within 30 days after the tax notice is postmarked.

(2) Any freight line company license taxes paid by or on behalf of a railroad car company in 1992 for taxes owed under the provisions of Title 15, chapter 55, for tax year 1991 must be credited against the tax owed by the company under [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. If the tax paid under Title 15, chapter 55, exceeds the amount of tax owed under [sections 7 through 13] [15-23-211 through 15-23-216 and this section], the state treasurer shall refund the difference without interest.

(3) On or before October 31, 1992, each railroad car company shall submit to the department the information needed to make the assessment and to compute the tax for tax year 1992, as provided for in [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes owed. The taxes for 1992 are due and payable within 30 days after the tax notice is postmarked."

Effective Date — Retroactive Applicability: Section 17, Ch. 10, Sp. L. July 1992, provided: "[This act] is effective on passage and approval [approved August 6, 1992] and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1990."

Termination: Section 18, Ch. 10, Sp. L. July 1992, provided that sec. 13, Ch. 10, Sp. L. July 1992, an uncodified transition section, terminates January 1, 1994.

15-23-213. Assessment — allocation — taxable value. (1) The department of revenue shall assess the property in the name of the railroad car company owning the property unless the property is reported by another person leasing or operating the property.

(2) The allocation of property to this state must be made on the basis of the car miles traveled within the state to the total car miles traveled unless the department by administrative rule adopts a different formula.

(3) In determining taxable value, the department shall use the percentage rate "R", as provided in 15-6-145, to achieve compliance with the requirements of the federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended.

History: En. Sec. 9, Ch. 10, Sp. L. July 1992.

Compiler's Comments

Transition: Section 13, Ch. 10, Sp. L. July 1992, provided: "(1) On or before October 31, 1992, each railroad car company shall submit to the department of revenue the information needed to make an assessment and to compute the tax for tax year 1991. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes due. Taxes are due and payable within 30 days after the tax notice is postmarked.

(2) Any freight line company license taxes paid by or on behalf of a railroad car company in 1992 for taxes owed under the provisions of Title 15, chapter 55, for tax year 1991 must be credited against the tax owed by the company under [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. If the tax paid under Title 15, chapter 55, exceeds the amount of tax owed under [sections 7 through 13] [15-23-211 through 15-23-216 and this section], the state treasurer shall refund the difference without interest.

(3) On or before October 31, 1992, each railroad car company shall submit to the department the information needed to make the assessment and to compute the tax for tax year 1992, as provided for in [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes owed. The taxes for 1992 are due and payable within 30 days after the tax notice is postmarked."

Effective Date — Retroactive Applicability: Section 17, Ch. 10, Sp. L. July 1992, provided: "[This act] is effective on passage and approval [approved August 6, 1992] and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1990."

Termination: Section 18, Ch. 10, Sp. L. July 1992, provided that sec. 13, Ch. 10, Sp. L. July 1992, an uncodified transition section, terminates January 1, 1994.

15-23-214. Determination of tax — payment. (1) On or before the third Monday in October, the department of revenue shall compute the tax on railroad car company property by multiplying the taxable value of the property by the average levy.

(2) After determining the tax, the department shall send to the last-known address of each railroad car company subject to taxation a written notice, postage prepaid, showing the amount of taxes due for the current year and any delinquent amount for prior years. The notice must include the taxable value of the property and the average levy used to compute the tax.

(3) The tax is due and payable to the department under the provisions of 15-16-102. A tax not received by the department within the time requirements of 15-16-102 is delinquent and subject to penalty and interest under that section.

History: En. Sec. 10, Ch. 10, Sp. L. July 1992.

Compiler's Comments

Transition: Section 13, Ch. 10, Sp. L. July 1992, provided: "(1) On or before October 31, 1992, each railroad car company shall submit to the department of revenue the information needed to make an assessment and to compute the tax for tax year 1991. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes due. Taxes are due and payable within 30 days after the tax notice is postmarked.

(2) Any freight line company license taxes paid by or on behalf of a railroad car company in 1992 for taxes owed under the provisions of Title 15, chapter 55, for tax year 1991 must be credited against the tax owed by the company under [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. If the tax paid under Title 15, chapter 55, exceeds the amount of tax owed under [sections 7 through 13] [15-23-211 through 15-23-216 and this section], the state treasurer shall refund the difference without interest.

(3) On or before October 31, 1992, each railroad car company shall submit to the department the information needed to make the assessment and to compute the tax for tax year 1992, as provided for in [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes owed. The taxes for 1992 are due and payable within 30 days after the tax notice is postmarked."

Effective Date — Retroactive Applicability: Section 17, Ch. 10, Sp. L. July 1992, provided: "[This act] is effective on passage and approval [approved August 6, 1992] and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1990."

Termination: Section 18, Ch. 10, Sp. L. July 1992, provided that sec. 13, Ch. 10, Sp. L. July 1992, an uncodified transition section, terminates January 1, 1994.

15-23-215. Deposit of taxes. All taxes, penalties, and interest collected by the department of revenue under 15-23-211 through 15-23-216 must be deposited in the general fund.

History: En. Sec. 11, Ch. 10, Sp. L. July 1992.

Compiler's Comments

Transition: Section 13, Ch. 10, Sp. L. July 1992, provided: "(1) On or before October 31, 1992, each railroad car company shall submit to the department of revenue the information needed to make an assessment and to compute the tax for tax year 1991. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes due. Taxes are due and payable within 30 days after the tax notice is postmarked.

(2) Any freight line company license taxes paid by or on behalf of a railroad car company in 1992 for taxes owed under the provisions of Title 15, chapter 55, for tax year 1991 must be credited against the tax owed by the company under [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. If the tax paid under Title 15, chapter 55, exceeds the amount of tax owed under [sections 7 through 13] [15-23-211 through 15-23-216 and this section], the state treasurer shall refund the difference without interest.

(3) On or before October 31, 1992, each railroad car company shall submit to the department the information needed to make the assessment and to compute the tax for tax year 1992, as provided for in [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes owed. The taxes for 1992 are due and payable within 30 days after the tax notice is postmarked."

Effective Date — Retroactive Applicability: Section 17, Ch. 10, Sp. L. July 1992, provided: "[This act] is effective on passage and approval [approved August 6, 1992] and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1990."

Termination: Section 18, Ch. 10, Sp. L. July 1992, provided that sec. 13, Ch. 10, Sp. L. July 1992, an uncodified transition section, terminates January 1, 1994.

15-23-216. Lien — collection actions. (1) A tax due under 15-23-211 through 15-23-216 is a lien on all real and personal property of the railroad car company to the same extent as are other taxes under 15-16-401 and 15-16-402.

(2) The department may at any time after the taxes are delinquent use the following collection actions:

(a) seizure and sale of personal property, as provided in 15-17-911, with the department having the same authority as the county treasurer;

(b) suit for collection in district court; or

(c) issuance of a warrant for distraint, as provided in Title 15, chapter 1, part 7.

(3) The use of one collection method does not prevent the department from using other collection methods.

History: En. Sec. 12, Ch. 10, Sp. L. July 1992.

Compiler's Comments

Transition: Section 13, Ch. 10, Sp. L. July 1992, provided: "(1) On or before October 31, 1992, each railroad car company shall submit to the department of revenue the information needed to make an assessment and to compute the tax for tax year 1991. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes due. Taxes are due and payable within 30 days after the tax notice is postmarked.

(2) Any freight line company license taxes paid by or on behalf of a railroad car company in 1992 for taxes owed under the provisions of Title 15, chapter 55, for tax year 1991 must be credited against the tax owed by the company under [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. If the tax paid under Title 15, chapter 55, exceeds the amount of tax owed under [sections 7 through 13] [15-23-211 through 15-23-216 and this section], the state treasurer shall refund the difference without interest.

(3) On or before October 31, 1992, each railroad car company shall submit to the department the information needed to make the assessment and to compute the tax for tax year 1992, as provided for in [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes owed. The taxes for 1992 are due and payable within 30 days after the tax notice is postmarked."

Effective Date — Retroactive Applicability: Section 17, Ch. 10, Sp. L. July 1992, provided: "[This act] is effective on passage and approval [approved August 6, 1992] and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1990."

Termination: Section 18, Ch. 10, Sp. L. July 1992, provided that sec. 13, Ch. 10, Sp. L. July 1992, an uncodified transition section, terminates January 1, 1994.

Part 7

Coal Gross Proceeds

15-23-716. *(Temporary)* **Surtax — distribution.** (1) Each person required to pay the coal gross proceeds tax under this part shall pay, in addition to the tax liability determined under 15-23-703, a surtax of 7% of the tax liability.

(2) Notwithstanding the provisions of 15-23-707, the money received from county treasurers from the surtax collected under this section must be deposited to the credit of the state general fund.

History: En. Sec. 1, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Retroactive Applicability — Termination: Section 39(3), Ch. 15, Sp. L. July 1992, provided that this section applies to production occurring after December 31, 1991, and before January 1, 1993. This section terminates upon receipt of taxes on production occurring prior to January 1, 1993.

CHAPTER 30

INDIVIDUAL INCOME TAX

Part 1

Rate and Return of Tax

15-30-101. Definitions. For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

(1) "Base year structure" means the following elements of the income tax structure:

(a) the tax brackets established in 15-30-103, but unadjusted by subsection (2) of 15-30-103, in effect on June 30 of the taxable year;

(b) the exemptions contained in 15-30-112, but unadjusted by 15-30-112(6), in effect on June 30 of the taxable year;

(c) the maximum standard deduction provided in 15-30-122, but unadjusted by subsection (2) of 15-30-122, in effect on June 30 of the taxable year.

(2) "Consumer price index" means the consumer price index, United States city average, for all items, using the 1967 base of 100 as published by the bureau of labor statistics of the U.S. department of labor.

(3) "Department" means the department of revenue.

(4) "Dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends as herein defined. "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

(5) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

(6) "Foreign country" or "foreign government" means any jurisdiction other than the one embraced within the United States, its territories and possessions.

(7) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code of 1954 or as that section may be labeled or amended, excluding unemployment compensation included in federal gross income under the provisions of section 85 of the Internal Revenue Code of 1954 as amended.

(8) "Inflation factor" means a number determined for each taxable year by dividing the consumer price index for June of the taxable year by the consumer price index for June, 1980.

(9) "Information agents" includes all individuals, corporations, associations, and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

(10) "Knowingly" is as defined in 45-2-101.

(11) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

(12) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

(13) "Pension and annuity income" means:

(a) systematic payments of a definitely determinable amount from a qualified pension plan, as that term is used in section 401 of the Internal Revenue Code, or systematic payments received as the result of contributions made to a qualified pension plan that are paid to the recipient or recipient's beneficiary upon the cessation of employment;

(b) payments received as the result of past service and cessation of employment in the uniformed services of the United States;

(c) lump-sum distributions from pension or profitsharing plans to the extent that the distributions are included in federal adjusted gross income;

(d) distributions from individual retirement, deferred compensation, and self-employed retirement plans recognized under sections 401 through 408 of the Internal Revenue Code to the extent that the distributions are not considered to be premature distributions for federal income tax purposes; or

(e) amounts after cessation of regular employment received from fully matured, privately purchased annuity contracts.

(14) "Purposely" is as defined in 45-2-101.

(15) "Received", for the purpose of computation of taxable income under this chapter, means received or accrued and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

(16) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and has not established a residence elsewhere.

(17) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

(18) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

(19) "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this chapter and does not include corporations.

History: En. Sec. 1, Ch. 181, L. 1933; re-en. Sec. 2295.1, R.C.M. 1935; amd. Sec. 1, Ch. 166, L. 1947; amd. Sec. 1, Ch. 253, L. 1959; amd. Sec. 1, Ch. 62, L. 1967; amd. Sec. 157, Ch. 516, L. 1973; R.C.M. 1947, 84-4901; amd. Sec. 1, Ch. 476, L. 1979; amd. Sec. 1, Ch. 648, L. 1979; amd. Sec. 1, I.M. No. 86, approved Nov. 4, 1980; amd. Sec. 1, Ch. 548, L. 1981; amd. Sec. 1, Ch. 289, L. 1989; amd. Sec. 1, Ch. 823, L. 1991; amd. Sec. 1, Ch. 14, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 14, Sp. L. July 1992, in (1)(b) substituted reference to subsection (6) of 15-30-112 for "subsections (7) and (8) of 15-30-112". Amendment effective August 6, 1992.

Retroactive Applicability: Section 10, Ch. 14, Sp. L. July 1992, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1991."

1991 Amendment: Inserted definition of pension and annuity income. Amendment effective May 24, 1991.

Retroactive Applicability: Section 22, Ch. 823, L. 1991, provided that this section applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1990.

15-30-105. Tax on nonresident — alternative tax based on gross sales. (1) A like tax is imposed upon every person not resident of this state, which tax shall be levied, collected, and paid annually at the rates specified in 15-30-103 with respect to his entire net income. After calculating the tax imposed, the tax due and payable must be determined based upon the ratio of income earned in Montana to total income. Interest income from installment sales of real or tangible commercial or business property located in Montana is considered income earned in Montana.

(2) Pursuant to the provisions of Article III, section 2, of the Multistate Tax Compact, every nonresident taxpayer required to file a return and whose

only activity in Montana consists of making sales and who does not own or rent real estate or tangible personal property within Montana and whose annual gross volume of sales made in Montana during the taxable year does not exceed $100,000 may elect to pay an income tax of 1/2 of 1% of the dollar volume of gross sales made in Montana during the taxable year. Such tax shall be in lieu of the tax imposed under 15-30-103. The gross volume of sales made in Montana during the taxable year shall be determined according to the provisions of Article IV, sections 16 and 17, of the Multistate Tax Compact.

History: En. Sec. 3, Ch. 181, L. 1933; re-en. Sec. 2295.3, R.C.M. 1935; amd. Sec. 2, Ch. 253, L. 1959; amd. Sec. 1, Ch. 199, L. 1963; amd. Sec. 1, Ch. 15, L. 1971; R.C.M. 1947, 84-4903; amd. Sec. 1, Ch. 422, L. 1981; amd. Sec. 2, Ch. 14, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 14, Sp. L. July 1992, in (1), at end of first sentence, deleted "as herein defined from all property owned and from every business, trade, profession, or occupation carried on in this state" and inserted last two sentences relating to calculating the tax based upon income ratio and consideration of interest income from installment sales of certain property. Amendment effective August 6, 1992.

Retroactive Applicability: Section 10, Ch. 14, Sp. L. July 1992, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1991."

15-30-112. Exemptions. (1) Except as provided in subsection (6), in the case of an individual, the exemptions provided by subsections (2) through (5) shall be allowed as deductions in computing taxable income.

(2) (a) An exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer.

(b) An additional exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(3) (a) An additional exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer if he has attained the age of 65 before the close of his taxable year.

(b) An additional exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse has attained the age of 65 before the close of such taxable year and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(4) (a) An additional exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer if he is blind at the close of his taxable year.

(b) An additional exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For the purposes of this subsection (4)(b), the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, except that if the spouse dies during such taxable year, such determination shall be made as of the time of such death.

(c) For purposes of this subsection (4), an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(5) (a) An exemption of $800 shall be allowed for taxable years beginning after December 31, 1978, for each dependent:

(i) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than $800; or

(ii) who is a child of the taxpayer and who:

(A) has not attained the age of 19 years at the close of the calendar year in which the taxable year of the taxpayer begins; or

(B) is a student.

(b) No exemption shall be allowed under this subsection for any dependent who has made a joint return with his spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son, stepson, daughter, or stepdaughter of the taxpayer.

(d) For purposes of subsection (5)(a)(ii)(B), the term "student" means an individual who, during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins:

(i) is a full-time student at an educational institution; or

(ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state. For purposes of this subsection (5)(d)(ii), the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(6) The department, by November 1 of each year, shall multiply all the exemptions provided in this section by the inflation factor for that taxable year and round the product to the nearest $10. The resulting adjusted exemptions are effective for that taxable year and shall be used in calculating the tax imposed in 15-30-103.

History: En. Sec. 10, Ch. 181, L. 1933; re-en. Sec. 2295.10, R.C.M. 1935; amd. Sec. 1, Ch. 29, L. 1941; amd. Sec. 1, Ch. 196, L. 1949; amd. Sec. 1, Ch. 233, L. 1957; amd. Sec. 3, Ch. 253, L. 1959; amd. Sec. 2, Ch. 199, L. 1963; amd. Sec. 1, Ch. 363, L. 1974; R.C.M. 1947, 84-4910(a) thru (e), (i); amd. Sec. 8, Ch. 698, L. 1979; amd. Sec. 3, I.M. No. 86, approved Nov. 4, 1980; amd. Sec. 2, Ch. 548, L. 1981; amd. Sec. 3, Ch. 14, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 14, Sp. L. July 1992, in (1), near beginning, substituted reference to subsection (6) for reference to subsections (7) and (8) and near end substituted reference to subsections (2) through (5) for references to subsections (2) through (6); deleted former (6) and (7) that read: "(6) In the case of a nonresident taxpayer, the exemption deduction shall be prorated according to the ratio the taxpayer's Montana adjusted gross income bears to his federal adjusted gross income.

(7) For taxable years beginning after December 31, 1978, and before January 1, 1981, the amount allowed as a deduction in subsections (2) through (6) shall be adjusted as provided under section 9, Chapter 698, Laws of 1979 as amended by section 4, Chapter 548, Laws of 1981"; and in (6), at beginning, deleted reference to taxable years beginning after December 31, 1980, and after "provided in this section" deleted "unadjusted by subsection (7)". Amendment effective August 6, 1992.

Retroactive Applicability: Section 10, Ch. 14, Sp. L. July 1992, provided: "[This act]

applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1991."

15-30-122. Standard deduction. (1) A standard deduction equal to 20% of adjusted gross income shall be allowed if elected by the taxpayer on his return. The standard deduction shall be in lieu of all deductions allowed under 15-30-121. The maximum standard deduction shall be $1,500, as adjusted under the provisions of subsection (2), except that in the case of a single joint return of husband and wife or in the case of a single individual who qualifies to file as a head of household on his federal income tax return, the maximum standard deduction shall be $3,000, as adjusted under the provisions of subsection (2). The standard deduction shall not be allowed to either the husband or the wife if the tax of one of the spouses is determined without regard to the standard deduction. For purposes of this section, the determination of whether an individual is married shall be made as of the last day of the taxable year; provided, however, if one of the spouses dies during the taxable year, the determination shall be made as of the date of death.

(2) By November 1 of each year, the department shall multiply the maximum standard deduction for single returns by the inflation factor for that taxable year and round the product to the nearest $10. The standard deduction for joint returns and qualified head of household returns shall be twice the amount for single returns. The resulting adjusted deductions are effective for that taxable year and shall be used in calculating the tax imposed in 15-30-103.

History: En. Sec. 8, Ch. 181, L. 1933; re-en. Sec. 2295.8, R.C.M. 1935; amd. Sec. 1, Ch. 207, L. 1949; amd. Sec. 1, Ch. 187, L. 1953; amd. Sec. 4, Ch. 260, L. 1955; amd. Sec. 1, Ch. 202, L. 1969; amd. Sec. Ch. 357, L. 1971; R.C.M. 1947, 84-4908; amd. Sec. 11, Ch. 698, L. 1979; amd. Sec. 4, I.M. No. 86, approved Nov. 4, 1980; amd. Sec. 1, Ch. 516, L. 1981; amd. Sec. 1, Ch. 501, L. 1983; amd. Sec. 1, Ch. 30, L. 1985; amd. Sec. 4, Ch. 14, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 14, Sp. L. July 1992, in (1), at beginning, deleted "In the case of a resident individual". Amendment effective August 6, 1992.

Retroactive Applicability: Section 10, Ch. 14, Sp. L. July 1992, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1991."

15-30-131. Nonresident and temporary resident taxpayers — adjusted gross income. In the case of a taxpayer other than a resident of this state, adjusted gross income includes the entire amount of adjusted gross income as provided for in 15-30-111.

History: En. Sec. 7, Ch. 181, L. 1933; re-en. Sec. 2295.7, R.C.M. 1935; amd. Sec. 1, Ch. 28, L. 1937; amd. Sec. 1, Ch. 7, L. 1939; amd. Sec. 1, Ch. 63, L. 1949; amd. Sec. 1, Ch. 17, L. 1951; amd. Sec. 1, Ch. 111, L. 1953; amd. Sec. 3, Ch. 260, L. 1955; amd. Sec. 1, Ch. 237, L. 1963; amd. Sec. 1, Ch. 270, L. 1965; amd. Sec. 168, Ch. 516, L. 1973; R.C.M. 1947, 84-4907; amd. Sec. 1, Ch. 623, L. 1979; amd. Sec. 4, Ch. 480, L. 1981; amd. Sec. 1, Ch. 378, L. 1983; amd. Sec. 1, Ch. 199, L. 1985; amd. Sec. 5, Ch. 14, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 14, Sp. L. July 1992, at end substituted "as provided for in 15-30-111" for "from sources within this state but shall not include income from annuities, interest on bank deposits, interest on bonds, notes, or other interest-bearing obligations, or dividends on stock of corporations except to the extent to which the same shall be a part of income from any business, trade, profession, or occupation carried on in this state. Interest income from installment sales of real or tangible commercial or business property located in Montana must be

included in adjusted gross income. Adjusted gross income from sources within and without this state shall be allocated and apportioned under rules prescribed by the department"; deleted (2) through (7) that read: "(2) In the case of a taxpayer other than a resident of this state who is a resident of a state that imposes a tax on the income of natural persons residing within that state, the deductions allowed in computing net income are restricted to those directly connected with the production of Montana income.

(3) In the case of a taxpayer other than a resident of this state who is a resident of a state that does not impose a tax on the income of natural persons residing within that state, the deductions allowed in computing net income are restricted to the greater of those directly relating to the production of Montana income or a prorated amount of those allowed under 15-30-121. For the purposes of this subsection, deductions allowed under 15-30-121 apply only to earned income and must be prorated according to the ratio that the taxpayer's Montana earned income bears to his federal earned income.

(4) A temporary resident shall be allowed those deductions and the credit under 15-32-109 allowed a resident to the extent that such deductions or credit were actually incurred or expended in the state of Montana during the course of his residency.

(5) For the purposes of this section, "earned income" shall be defined as the same term is defined in section 43 of the Internal Revenue Code, or as that section may subsequently be amended.

(6) Notwithstanding the provisions of subsections (2) and (3), any contribution made after December 31, 1982, to the state of Montana or a political subdivision thereof shall be an allowable deduction in computing net income. The deduction is subject to the limitations set forth in section 170 of the Internal Revenue Code of 1954, as labeled or amended.

(7) For purposes of this section, "installment sales" means sales in which the buyer agrees to pay the seller in one or more deferred installments." Amendment effective August 6, 1992.

Retroactive Applicability: Section 10, Ch. 14, Sp. L. July 1992, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1991."

15-30-132. Change from nonresident to resident or vice versa. If a taxpayer changes his status from that of resident to that of nonresident or from that of nonresident to that of resident during the taxable year, he shall file a return. If a resident obtains employment outside the state, income from such employment is taxable in Montana.

History: En. Sec. 15, Ch. 181, L. 1933; re-en. Sec. 2295.15, R.C.M. 1935; amd. Sec. 9, Ch. 260, L. 1955; amd. Sec. 6, Ch. 253, L. 1959; R.C.M. 1947, 84-4915; amd. Sec. 6, Ch. 14, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 14, Sp. L. July 1992, after "he shall file a return" deleted "covering the fraction of the year during which he was a resident. The exemptions provided in 15-30-112 shall be prorated on the ratio the Montana adjusted gross income bears to federal adjusted gross income. A Montana citizen moving out of the state, abandoning his residence in the state, and establishing a residence elsewhere must file a return on the fractional basis" and in last sentence, after "outside the state", deleted "without abandoning his Montana residence"; and made minor changes in style. Amendment effective August 6, 1992.

Retroactive Applicability: Section 10, Ch. 14, Sp. L. July 1992, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1991."

15-30-136. Computation of income of estates or trusts — exemption. (1) Except as otherwise provided in this chapter, "gross income" of estates or trusts means all income from whatever source derived in the taxable year, including but not limited to the following items:

(a) dividends;

(b) interest received or accrued, including interest received on obligations of another state or territory or a county, municipality, district, or other

political subdivision thereof, but excluding interest income from obligations of:

(i) the United States government or the state of Montana;

(ii) a school district; or

(iii) a county, municipality, district, or other political subdivision of the state;

(c) income from partnerships and other fiduciaries;

(d) gross rents and royalties;

(e) gain from sale or exchange of property, including those gains that are excluded from gross income for federal fiduciary income tax purposes by section 641(c) of the Internal Revenue Code of 1954, as amended;

(f) gross profit from trade or business; and

(g) refunds recovered on federal income tax, to the extent the deduction of such tax resulted in a reduction of Montana income tax liability.

(2) In computing net income, there are allowed as deductions:

(a) interest expenses deductible for federal tax purposes according to section 163 of the Internal Revenue Code of 1954, as amended;

(b) taxes paid or accrued within the taxable year, including but not limited to federal income tax, but excluding Montana income tax;

(c) that fiduciary's portion of depreciation or depletion which is deductible for federal tax purposes according to sections 167, 611, and 642 of the Internal Revenue Code of 1954, as amended;

(d) charitable contributions that are deductible for federal tax purposes according to section 642(c) of the Internal Revenue Code of 1954, as amended;

(e) administrative expenses claimed for federal income tax purposes, according to sections 212 and 642(g) of the Internal Revenue Code of 1954, as amended, if such expenses were not claimed as a deduction in the determination of Montana inheritance tax;

(f) losses from fire, storm, shipwreck, or other casualty or from theft, to the extent not compensated for by insurance or otherwise, that are deductible for federal tax purposes according to section 165 of the Internal Revenue Code of 1954, as amended;

(g) net operating loss deductions allowed for federal income tax under section 642(d) of the Internal Revenue Code of 1954, as amended, except estates may not claim losses that are deductible on the decedent's final return;

(h) Montana income tax refunds or tax refund credits.

(3) The following additional deductions shall be allowed in deriving taxable income of estates and trusts:

(a) any amount of income for the taxable year currently required to be distributed to beneficiaries for such year;

(b) any other amounts properly paid or credited or required to be distributed for the taxable year;

(c) the amount of 60% of the excess of the net long-term capital gain over the net short-term capital loss for the taxable year.

(4) The exemption allowed for estates and trusts is that exemption provided in 15-30-112(2)(a) and (6).

History: En. Secs. 2, 3(1), (2), Ch. 260, L. 1983; amd. Sec. 2, Ch. 464, L. 1985; amd. Sec. 2, Ch. 657, L. 1987; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 4, Ch. 807, L. 1991; amd. Sec. 3, Ch. 823, L. 1991; amd. Sec. 7, Ch. 14, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 14, Sp. L. July 1992, in (4), at end, substituted reference to subsection (6) of 15-30-112 for "15-30-112(8)". Amendment effective August 6, 1992.

Retroactive Applicability: Section 10, Ch. 14, Sp. L. July 1992, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1991."

1991 Amendments: Chapter 807 deleted former (3) that read: "(3) In the case of a shareholder of a corporation with respect to which the election provided for under subchapter S. of the Internal Revenue Code of 1954, as amended, is in effect but with respect to which the election provided for under 15-31-202 is not in effect, net income does not include any part of the corporation's undistributed taxable income, net operating loss, capital gains or other gains, profits, or losses required to be included in the shareholder's federal income tax net income by reason of the election under subchapter S. However, the shareholder's net income shall include actual distribution from the corporation to the extent it would be treated as taxable dividends if the subchapter S. election were not in effect". Amendment effective December 31, 1991.

Chapter 823 deleted former (2)(h) that read: "(h) all benefits, not in excess of $3,600, received:

(i) as federal employees' retirement;

(ii) as retirement from public employment in a state other than Montana; or

(iii) as an annuity, pension, or endowment under private or corporate retirement plans or systems"; deleted (2)(i) that read: "(i) all benefits paid under the Montana teachers' retirement system that are specified as exempt from taxation by 19-4-706"; deleted (2)(j) that read: "(j) all benefits paid under the Montana Public Employees' Retirement System Act that are specified as exempt from taxation by 19-3-105"; deleted (2)(k) that read: "(k) all benefits paid under the Montana highway patrol officers' retirement system that are specified as exempt from taxation by 19-6-705"; deleted (2)(m) that read: "(m) all benefits paid under 19-11-602, 19-11-604, and 19-11-605 to retired and disabled firemen or their surviving spouses or children"; deleted (2)(n) that read: "(n) all benefits paid under the municipal police officers' retirement system that are specified as exempt from taxation by 19-9-1005"; deleted (6) that read: "(6) A trust or estate excluding benefits under subsections (2)(i) through (2)(k), (2)(m), or (2)(n) may not exclude benefits described in subsection (2)(h) from net income unless the benefits received under subsections (2)(i) through (2)(k), (2)(m), or (2)(n) are less than $3,600, in which case the trust or estate may combine benefits to exclude up to a total of $3,600 from net income"; and made minor change in style. Amendment effective May 24, 1991.

Effective Dates — Applicability: Section 12, Ch. 807, L. 1991, provided: "(1) Except for the purposes of subsection (2), [this act] is effective December 31, 1991, and applies to tax years beginning after December 31, 1991.

(2) For the purpose of promulgating administrative rules to implement [sections 1 through 10] [15-30-111, 15-30-117, 15-30-126, 15-30-136, 15-30-161, 15-31-201, 15-31-202, 15-31-204, and 90-8-202], [this act] is effective on passage and approval." Approved May 17, 1991.

Retroactive Applicability: Section 22, Ch. 823, L. 1991, provided that this section applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1990.

15-30-142. Returns and payment of tax — penalty and interest — refunds — credits. (1) Every single individual and every married individual not filing a joint return with his or her spouse and having a gross income for the taxable year of more than $1,000, as adjusted under the provisions of subsection (7), and married individuals not filing separate returns and having a combined gross income for the taxable year of more than $2,000, as adjusted under the provisions of subsection (7), shall be liable for a return to be filed on such forms and according to such rules as the department may prescribe. The gross income amounts referred to in the preceding sentence shall be increased by $800, as adjusted under the provisions of 15-30-112(6), for each additional personal exemption allowance the taxpayer is entitled to claim for himself and his spouse under 15-30-112(3) and (4). A nonresident shall be required to file a return if his gross income for the taxable year derived from

sources within Montana exceeds the amount of the exemption deduction he is entitled to claim for himself and his spouse under the provisions of 15-30-112(2), (3), and (4).

(2) In accordance with instructions set forth by the department, every taxpayer who is married and living with husband or wife and is required to file a return may, at his or her option, file a joint return with husband or wife even though one of the spouses has neither gross income nor deductions. If a joint return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several. If a joint return has been filed for a taxable year, the spouses may not file separate returns after the time for filing the return of either has expired unless the department so consents.

(3) If any such taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer.

(4) All taxpayers, including but not limited to those subject to the provisions of 15-30-202 and 15-30-241, shall compute the amount of income tax payable and shall, at the time of filing the return required by this chapter, pay to the department any balance of income tax remaining unpaid after crediting the amount withheld as provided by 15-30-202 and/or any payment made by reason of an estimated tax return provided for in 15-30-241; provided, however, the tax so computed is greater by $1 than the amount withheld and/or paid by estimated return as provided in this chapter. If the amount of tax withheld and/or payment of estimated tax exceeds by more than $1 the amount of income tax as computed, the taxpayer shall be entitled to a refund of the excess.

(5) As soon as practicable after the return is filed, the department shall examine and verify the tax.

(6) If the amount of tax as verified is greater than the amount theretofore paid, the excess shall be paid by the taxpayer to the department within 60 days after notice of the amount of the tax as computed, with interest added at the rate of 9% per annum or fraction thereof on the additional tax. In such case there shall be no penalty because of such understatement, provided the deficiency is paid within 60 days after the first notice of the amount is mailed to the taxpayer.

(7) By November 1 of each year, the department shall multiply the minimum amount of gross income necessitating the filing of a return by the inflation factor for the taxable year. These adjusted amounts are effective for that taxable year, and persons having gross incomes less than these adjusted amounts are not required to file a return.

(8) Individual income tax forms distributed by the department for each taxable year must contain instructions and tables based on the adjusted base year structure for that taxable year.

History: En. Sec. 14, Ch. 181, L. 1933; re-en. Sec. 2295.14, R.C.M. 1935; amd. Sec. 1, Ch. 34, L. 1949; amd. Sec. 8, Ch. 260, L. 1955; amd. Sec. 2, Ch. 227, L. 1957; amd. Sec. 5, Ch. 253, L. 1959; amd. Sec. 1, Ch. 201, L. 1963; amd. Sec. 1, Ch. 347, L. 1969; amd. Sec. 1, Ch. 450, L. 1973; amd. Sec. 171, Ch. 516, L. 1973; amd. Sec. 1, Ch. 159, L. 1977; R.C.M. 1947, 84-4914(part); amd. Sec. 12, Ch. 698, L. 1979; amd. Secs. 5, 6, I.M. No. 86, approved Nov. 4, 1980; amd. Sec. 1, Ch. 4, L. 1981; amd. Sec. 2, Ch. 477, L. 1981; amd. Sec. 3, Ch. 548, L. 1981; amd. Sec. 8, Ch. 14, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 14, Sp. L. July 1992, in (1), near middle, substituted reference to subsection (6) of 15-30-112 for "15-30-112(7) and (8)" and at end deleted "as prorated according to 15-30-112(6)". Amendment effective August 6, 1992.

Retroactive Applicability: Section 10, Ch. 14, Sp. L. July 1992, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1991."

15-30-199. *(Temporary)* **Surtax.** Each person required to file a Montana individual income tax return shall pay, in addition to the tax liability computed as required in 15-30-103, a surtax of 2.3% of the tax liability for tax year 1992 and a surtax of 4.7% of the tax liability for tax year 1993.

History: En. Sec. 2, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Retroactive Applicability — Termination: Section 39(1), Ch. 15, Sp. L. July 1992, provided that this section applies to tax years beginning after December 31, 1991, and before January 1, 1994. This section terminates upon receipt of taxes for tax year 1993.

CHAPTER 31

CORPORATION LICENSE OR INCOME TAX

Part 1

Corporation License Tax Rate and Return

15-31-121. *(Temporary)* **Rate of tax — minimum tax — surtax.** (1) Except as provided in subsection (2), the percentage of net income to be paid under 15-31-101 shall be 6 3/4% of all net income for the taxable period. The rate set forth in this subsection (1) shall be effective for all taxable years ending on or after February 28, 1971. This rate is retroactive to and effective for all taxable years ending on or after February 28, 1971.

(2) For a taxpayer making a water's-edge election, the percentage of net income to be paid under 15-31-101 shall be 7% of all taxable net income for the taxable period.

(3) Every corporation subject to taxation under this part shall, in any event, pay a minimum tax of not less than $50.

(4) After the amount of tax liability has been computed under subsections (1) through (3), each corporation subject to taxation under this part shall add, as a surtax for tax year 1992, 2.3% of the tax liability and, as a surtax for tax year 1993, 4.7% of the tax liability, and the amount so derived is the amount due the state.

(5) The additional tax collected under subsection (4) must be deposited to the credit of the state general fund.

15-31-121. *(Effective on receipt of taxes for tax year 1993)* **Rate of tax — minimum tax — surtax.** (1) Except as provided in subsection (2), the percentage of net income to be paid under 15-31-101 shall be 6 3/4% of all net income for the taxable period. The rate set forth in this subsection (1) shall be effective for all taxable years ending on or after February 28, 1971. This rate is retroactive to and effective for all taxable years ending on or after February 28, 1971.

(2) For a taxpayer making a water's-edge election, the percentage of net income to be paid under 15-31-101 shall be 7% of all taxable net income for the taxable period.

(3) Every corporation subject to taxation under this part shall, in any event, pay a minimum tax of not less than $50.

(4) After the amount of tax liability has been computed under subsections (1) through (3), each corporation subject to taxation under this part shall add, as a surtax for tax year 1988, 4% of the tax liability, and the amount so derived is the amount due the state.

History: En. Sec. 1, Ch. 79, L. 1917; Subd. 16, amd. Sec. 1, Ch. 64, L. 1921; re-en. Sec. 2296, R.C.M. 1921; amd. Sec. 1, Ch. 166, L. 1933; re-en. Sec. 2296, R.C.M. 1935; amd. Sec. 1, Ch. 29, L. 1937; amd. Sec. 1, Ch. 92, L. 1937; amd. Sec. 1, Ch. 232, L. 1957; amd. Sec. 1, Ch. 264, L. 1959; amd. Sec. 1, Ch. 155, L. 1961; amd. Sec. 1, Ch. 269, L. 1965; amd. Sec. 1, Ch. 4, Ex. L. 1967; amd. Sec. 1, Ch. 11, Ex. L. 1969; amd. Sec. 1, Ch. 16, L. 1971; amd. Sec. 1, Ch. 333, L. 1971; amd. Sec. 1, Ch. 5, Ex. L. 1971; amd. Sec. 1, Ch. 7, 2nd Ex. L. 1971; amd. Sec. 1, Ch. 468, L. 1973; amd. Sec. 1, Ch. 484, L. 1973; amd. Sec. 1, Ch. 5, L. 1974; amd. Sec. 1, Ch. 257, L. 1977; R.C.M. 1947, 84-1501(part); amd. Sec. 7, Ch. 616, L. 1987; amd. Sec. 90, Ch. 11, Sp. L. June 1989; amd. Sec. 3, Ch. 15, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 15, Sp. L. July 1992, in (4) substituted "for tax year 1992, 2.3% of the tax liability and, as a surtax for tax year 1993, 4.7%" for "for tax year 1988, 4%"; and inserted (5) concerning deposit of surtax proceeds.

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Retroactive Applicability — Termination: Section 39(1), Ch. 15, Sp. L. July 1992, provided that this section applies to tax years beginning after December 31, 1991, and before January 1, 1994. This section terminates upon receipt of taxes for tax year 1993.

CHAPTER 36

OIL AND GAS SEVERANCE TAX

Part 1

General Provisions

15-36-126. *(Temporary)* **Surtax.** (1) Each person required to pay the severance tax under this chapter on oil and gas production, other than production from a stripper well, shall pay, in addition to the tax liability computed as required in 15-36-101 and 15-36-121, a surtax of 7% of the tax liability.

(2) The additional tax must be deposited to the credit of the state general fund.

History: En. Sec. 5, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Retroactive Applicability — Termination: Section 39(2), Ch. 15, Sp. L. July 1992, provided that this section applies to production occurring after June 30, 1992, and before July 1, 1993. This section terminates upon receipt of taxes on production occurring prior to July 1, 1993.

CHAPTER 37

MINING LICENSE TAXES

Part 1

Metalliferous Mines

15-37-117. *(Temporary)* **Disposition of metalliferous mines license taxes.** (1) Except as provided in subsection (4), metalliferous mines license taxes collected under the provisions of this part are allocated as follows:

(a) to the credit of the general fund of the state, 58% of total collections each year;

(b) to the state special revenue fund to the credit of a hard-rock mining impact trust account, 1.5% of total collections each year;

(c) to the state resource indemnity trust fund, 15.5% of total collections each year;

(d) to the county or counties identified as experiencing fiscal and economic impacts, resulting in increased employment or local government costs, under an impact plan for a large-scale mineral development prepared and approved

pursuant to 90-6-307, in direct proportion to the fiscal and economic impacts determined in the plan or, if no impact plan has been prepared, to the county in which the mine is located, 25% of total collections each year, to be allocated by the county commissioners as follows:

(i) not less than 40% to the county hard-rock mine trust reserve account established in 7-6-2225; and

(ii) all money not allocated to the account pursuant to subsection (1)(d)(i) to be further allocated as follows:

(A) 33 ⅓% is allocated to the county for planning or economic development activities;

(B) 33 ⅓% is allocated to the elementary school districts within the county that have been affected by the development or operation of the metal mine; and

(C) 33 ⅓% is allocated to the high school districts within the county that have been affected by the development or operation of the metal mine.

(2) When an impact plan for a large-scale mineral development approved pursuant to 90-6-307 identifies a jurisdictional revenue disparity, the county shall distribute the proceeds allocated under subsection (1)(d) in a manner similar to that provided for property tax sharing under Title 90, chapter 6, part 4.

(3) The department shall return to the county in which metals are produced the tax collections allocated under subsection (1)(d). The allocation to the county described by subsection (1)(d) is a statutory appropriation pursuant to 17-7-502.

(4) The proceeds of the surtax collected under 15-37-126 must be deposited to the credit of the general fund.

15-37-117. *(Effective on receipt of taxes on production occurring prior to January 1, 1993)* **Disposition of metalliferous mines license taxes.** (1) Metalliferous mines license taxes collected under the provisions of this part are allocated as follows:

(a) to the credit of the general fund of the state, 58% of total collections each year;

(b) to the state special revenue fund to the credit of a hard-rock mining impact trust account, 1.5% of total collections each year;

(c) to the state resource indemnity trust fund, 15.5% of total collections each year;

(d) to the county or counties identified as experiencing fiscal and economic impacts, resulting in increased employment or local government costs, under an impact plan for a large-scale mineral development prepared and approved pursuant to 90-6-307, in direct proportion to the fiscal and economic impacts determined in the plan or, if no impact plan has been prepared, to the county in which the mine is located, 25% of total collections each year, to be allocated by the county commissioners as follows:

(i) not less than 40% to the county hard-rock mine trust reserve account established in 7-6-2225; and

(ii) all money not allocated to the account pursuant to subsection (1)(d)(i) to be further allocated as follows:

(A) 33 1/3% is allocated to the county for planning or economic development activities;

(B) 33 1/3% is allocated to the elementary school districts within the county that have been affected by the development or operation of the metal mine; and

(C) 33 1/3% is allocated to the high school districts within the county that have been affected by the development or operation of the metal mine.

(2) When an impact plan for a large-scale mineral development approved pursuant to 90-6-307 identifies a jurisdictional revenue disparity, the county shall distribute the proceeds allocated under subsection (1)(d) in a manner similar to that provided for property tax sharing under Title 90, chapter 6, part 4.

(3) The department shall return to the county in which metals are produced the tax collections allocated under subsection (1)(d). The allocation to the county described by subsection (1)(d) is a statutory appropriation pursuant to 17-7-502.

History: En. Sec. 1, Ch. 619, L. 1983; amd. Sec. 48, Ch. 281, L. 1983; amd. Sec. 8, Ch. 672, L. 1989; amd. Sec. 2, Ch. 760, L. 1991; amd. Sec. 7, Ch. 15, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 15, Sp. L. July 1992, at beginning inserted exception clause; and inserted (4) concerning disposition of the surtax.

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Retroactive Applicability — Termination: Section 39(3), Ch. 15, Sp. L. July 1992, provided that this section applies to production occurring after December 31, 1991, and before January 1, 1993. This section terminates upon receipt of taxes on production occurring prior to January 1, 1993.

1991 Amendment: At beginning of (1)(d) inserted "to the county or counties identified as experiencing fiscal and economic impacts, resulting in increased employment or local government costs, under an impact plan for a large-scale mineral development prepared and approved pursuant to 90-6-307, in direct proportion to the fiscal and economic impacts determined in the plan or, if no impact plan has been prepared"; and in (1)(d)(ii), at end after "follows", deleted "except that more than one entity may share an allocation if a jurisdictional revenue disparity is identified pursuant to subsection (2)".

Retroactive Applicability: Section 3, Ch. 760, L. 1991, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to all large-scale mineral developments required to comply with 90-6-307 that did not have an impact plan approved pursuant to 90-6-307, as of December 31, 1990."

15-37-126. *(Temporary)* **Surtax — distribution.** Each person required to pay the metal mines license tax under this part shall pay, in addition to the tax liability computed as required in 15-37-103, a surtax of 7% of the tax liability.

History: En. Sec. 6, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Retroactive Applicability — Termination: Section 39(3), Ch. 15, Sp. L. July 1992, provided that this section applies to production occurring after December 31, 1991, and before January 1, 1993. This section terminates upon receipt of taxes on production occurring prior to January 1, 1993.

Part 2

Micaceous Mineral Mines

15-37-226. *(Temporary)* **Surtax.** Each person required to pay the license tax on micaceous minerals under this part shall pay, in addition to the tax liability computed as required in 15-37-201, a surtax of 7% of the tax liability.

History: En. Sec. 8, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Retroactive Applicability — Termination: Section 39(2), Ch. 15, Sp. L. July 1992, provided that this section applies to production occurring after June 30, 1992, and before July 1, 1993. This section terminates upon receipt of taxes on production occurring prior to July 1, 1993.

CHAPTER 38

RESOURCE INDEMNITY TRUST TAX

Part 1

General Provisions

15-38-136. *(Temporary)* **Surtax.** (1) Each person required to pay the resource indemnity trust tax under this part shall pay, in addition to the tax liability computed as required in 15-38-104, a surtax of 7% of the tax liability.

(2) The additional tax must be deposited to the credit of the state general fund.

History: En. Sec. 9, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Retroactive Applicability — Termination: Section 39(3), Ch. 15, Sp. L. July 1992, provided that this section applies to production occurring after December 31, 1991, and before January 1, 1993. This section terminates upon receipt of taxes on production occurring prior to January 1, 1993.

CHAPTER 51

ELECTRIC ENERGY PRODUCERS' LICENSE TAX

Part 1

General Provisions

15-51-126. *(Temporary)* **Surtax.** Each person required to pay the electric energy producers' license tax under this part shall pay, in addition to the tax liability computed as required in 15-51-101, a surtax of 7% of the tax liability.

History: En. Sec. 10, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Retroactive Applicability — Termination: Section 39(4), Ch. 15, Sp. L. July 1992, provided that this section applies to tax liabilities for calendar quarters beginning after June 30, 1992, and before July 1, 1993. This section terminates upon receipt of taxes for the quarter ending June 30, 1993.

CHAPTER 53

TELEPHONE COMPANY LICENSE TAX

Part 1

General Provisions

15-53-126. *(Temporary)* **Surtax.** Each person required to pay the telephone company license tax under this part shall pay, in addition to the tax liability computed as required in 15-53-101, a surtax of 7% of the tax liability.

History: En. Sec. 11, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Retroactive Applicability — Termination: Section 39(4), Ch. 15, Sp. L. July 1992, provided that this section applies to tax liabilities for calendar quarters beginning after June 30, 1992, and before July 1, 1993. This section terminates upon receipt of taxes for the quarter ending June 30, 1993.

CHAPTER 55

FREIGHT LINE COMPANY LICENSE TAX
(Repealed. Sec. 15, Ch. 10, Sp. L. July 1992)

Chapter Compiler's Comments

Transition: Section 13, Ch. 10, Sp. L. July 1992, provided: "(1) On or before October 31, 1992, each railroad car company shall submit to the department of revenue the information needed to make an assessment and to compute the tax for tax year 1991. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes due. Taxes are due and payable within 30 days after the tax notice is postmarked.

(2) Any freight line company license taxes paid by or on behalf of a railroad car company in 1992 for taxes owed under the provisions of Title 15, chapter 55, for tax year 1991 must be credited against the tax owed by the company under [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. If the tax paid under Title 15, chapter 55, exceeds the amount of tax owed under [sections 7 through 13] [15-23-211 through 15-23-216 and this section], the state treasurer shall refund the difference without interest.

(3) On or before October 31, 1992, each railroad car company shall submit to the department the information needed to make the assessment and to compute the tax for tax year 1992, as provided for in [sections 7 through 13] [15-23-211 through 15-23-216 and this section]. The department shall use the average levy for this computation and shall notify the railroad car companies of the amount of the taxes owed. The taxes for 1992 are due and payable within 30 days after the tax notice is postmarked."

Effective Date — Retroactive Applicability: Section 17, Ch. 10, Sp. L. July 1992, provided: "[This act] is effective on passage and approval [approved August 6, 1992] and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1990."

Termination: Section 18, Ch. 10, Sp. L. July 1992, provided that sec. 13, Ch. 10, Sp. L. July 1992, an uncodified transition section, terminates January 1, 1994.

Histories of Repealed Sections:

15-55-101. En. Sec. 1, Ch. 137, L. 1949; amd. Sec. 152, Ch. 516, L. 1973; R.C.M. 1947, 84-4818.

15-55-102. En. Sec. 2, Ch. 137, L. 1949; amd. Sec. 1, Ch. 346, L. 1969; R.C.M. 1947, 84-4819.

15-55-103. En. Sec. 3, Ch. 137, L. 1949; amd. Sec. 2, Ch. 346, L. 1969; amd. Sec. 1, Ch. 339, L. 1971; amd. Sec. 153, Ch. 516, L. 1973; R.C.M. 1947, 84-4820.

15-55-104. En. Sec. 4, Ch. 137, L. 1949; amd. Sec. 154, Ch. 516, L. 1973; amd. Sec. 4, Ch. 36, L. 1977; R.C.M. 1947, 84-4821.

15-55-105. En. Sec. 5, Ch. 137, L. 1949; amd. Sec. 92, Ch. 405, L. 1973; R.C.M. 1947, 84-4822(part).

15-55-106. En. Sec. 5, Ch. 137, L. 1949; amd. Sec. 92, Ch. 405, L. 1973; R.C.M. 1947, 84-4822(part); amd. Sec. 11, Ch. 20, L. 1985; amd. Sec. 22, Ch. 811, L. 1991.

15-55-107. En. Sec. 7, Ch. 137, L. 1949; amd. Sec. 98, Ch. 405, L. 1973; R.C.M. 1947, 84-4824; amd. Sec. 29, Ch. 581, L. 1979. Repealed. Sec. 29, Ch. 811, L. 1991.

15-55-108. En. Sec. 12, Ch. 294, L. 1979; amd. Sec. 4, Ch. 676, L. 1991.

15-55-109. En. Sec. 13, Ch. 294, L. 1979; amd. Sec. 29, Ch. 439, L. 1981.

15-55-110. En. Sec. 14, Ch. 294, L. 1979.

15-55-111. En. Sec. 1, Ch. 194, L. 1983.

CHAPTER 59

CEMENT TAXES

Part 1

Cement and Gypsum Producers

15-59-126. *(Temporary)* **Surtax.** Each person required to pay the cement and gypsum producers' license tax under this part shall pay, in addition to the tax liability computed as required in 15-59-102, a surtax of 7% of the tax liability.

History: En. Sec. 13, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Retroactive Applicability — Termination: Section 39(4), Ch. 15, Sp. L. July 1992, provided that this section applies to tax liabilities for calendar quarters beginning after June 30, 1992, and before July 1, 1993. This section terminates upon receipt of taxes for the quarter ending June 30, 1993.

Part 2

Cement Dealers

15-59-226. *(Temporary)* **Surtax.** Each person required to pay the cement dealers' license tax under this part shall pay, in addition to the tax liability computed as required in 15-59-201, a surtax of 7% of the tax liability.

History: En. Sec. 14, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Retroactive Applicability — Termination: Section 39(4), Ch. 15, Sp. L. July 1992, provided that this section applies to tax liabilities for calendar quarters beginning after June 30, 1992, and before July 1, 1993. This section terminates upon receipt of taxes for the quarter ending June 30, 1993.

CHAPTER 65

LODGING FACILITY USE TAX

Part 1

General Provisions

15-65-121. *(Temporary)* **Distribution of tax proceeds — general fund loan authority.** (1) Except as provided in subsection (5), the proceeds of the tax imposed by 15-65-111 must be deposited in an account in the state special revenue fund to the credit of the department of revenue. The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds as provided in subsections (1)(a) through (1)(c), the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The amount deducted must be deposited in the general fund. The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation or deposited in the general fund is statutorily appropriated, as provided in 17-7-502, and must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the Montana historical society, and to the university system, as follows:

(a) 1% to the Montana historical society to be used for the installation or maintenance of roadside historical signs and historic sites;

(b) 2.5% to the university system for the establishment and maintenance of a Montana travel research program; and

(c) the balance of the proceeds as follows:

(i) 75% to be used directly by the department of commerce;

(ii) except as provided in subsection (1)(c)(iii), 25% to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide;

(iii) if 25% of the proceeds collected annually within the limits of a city or consolidated city-county exceeds $35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city or consolidated city-county is located is to be distributed to the nonprofit convention and visitors bureau in that city or consolidated city-county.

(2) If a city or consolidated city-county qualifies under this section for funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit

tourism corporation in the region in which the city or consolidated city-county is located.

(3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials.

(4) The department of commerce may use general fund loans for efficient implementation of this section.

(5) On or before September 1, 1992, the department shall transfer $220,000 from the state special revenue account specified in subsection (1) to the general fund. *(Terminates September 2, 1992—sec. 8(2), Ch. 11, Sp. L. July 1992.)*

15-65-121. *(Effective September 2, 1992)* **Distribution of tax proceeds — general fund loan authority.** (1) The proceeds of the tax imposed by 15-65-111 must be deposited in an account in the state special revenue fund to the credit of the department of revenue. The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds as provided in subsections (1)(a) through (1)(c), the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The amount deducted must be deposited in the general fund. The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation or deposited in the general fund is statutorily appropriated, as provided in 17-7-502, and must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the Montana historical society, and to the university system, as follows:

(a) 1% to the Montana historical society to be used for the installation or maintenance of roadside historical signs and historic sites;

(b) 2.5% to the university system for the establishment and maintenance of a Montana travel research program; and

(c) the balance of the proceeds as follows:

(i) 75% to be used directly by the department of commerce;

(ii) except as provided in subsection (1)(c)(iii), 25% to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide;

(iii) if 25% of the proceeds collected annually within the limits of a city or consolidated city-county exceeds $35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city or consolidated city-county is located is to be distributed to the nonprofit convention and visitors bureau in that city or consolidated city-county.

(2) If a city or consolidated city-county qualifies under this section for funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit tourism corporation in the region in which the city or consolidated city-county is located.

(3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials.

(4) The department of commerce may use general fund loans for efficient implementation of this section.

History: En. Sec. 7, Ch. 607, L. 1987; amd. Sec. 15, Ch. 607, L. 1987; amd. Sec. 18, Ch. 83, L. 1989; amd. Sec. 2, Ch. 647, L. 1989; amd. Sec. 1, Ch. 11, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 11, Sp. L. July 1992, in (1), at beginning, inserted exception clause; and inserted (5) transferring $220,000 from the accommodations tax account to the general fund. Amendment effective August 6, 1992, and terminates September 2, 1992.

15-65-136. *(Temporary)* **Additional tax — allocation.** (1) An additional tax is imposed on the user of a facility at a rate equal to 0.28% of the accommodation charge collected by the facility.

(2) The additional tax must be deposited to the credit of the state general fund.

History: En. Sec. 15, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Applicability — Termination: Section 39(7), Ch. 15, Sp. L. July 1992, provided that this section applies to tax liabilities for calendar quarters beginning after September 30, 1992, and before October 1, 1993. This section terminates upon receipt of taxes for the quarter ending September 30, 1993.

CHAPTER 70

GASOLINE AND VEHICLE FUELS TAXES

Part 2

Basic Gasoline License Tax

15-70-241. *(Temporary)* **Surtax.** Each distributor required to pay the gasoline license tax under this part shall pay, in addition to the tax liability computed as required in 15-70-204, a surtax of 7% of the tax liability.

History: En. Sec. 16, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Applicability — Termination: Section 39(5), Ch. 15, Sp. L. July 1992, provided that this section applies for 1 calendar year to tax or fee liabilities for months beginning after August 14, 1992. This section terminates upon receipt of taxes or fees for the final month of applicability.

Part 3

Special Fuels Use Tax

15-70-346. *(Temporary)* **Surtax — diesel fuel and volatile liquids.** Each special fuel dealer subject to taxation under this part shall pay, in addition to the tax liability computed as required in 15-70-321, a surtax of 7% of the tax liability.

History: En. Sec. 17, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Applicability — Termination: Section 39(5), Ch. 15, Sp. L. July 1992, provided that this section applies for 1 calendar year to tax or fee liabilities for months beginning after August 14, 1992. This section terminates upon receipt of taxes or fees for the final month of applicability.

15-70-347. *(Temporary)* **Surtax — special fuels.** Each special fuel user subject to taxation under this part shall pay, in addition to the tax liability computed as required in 15-70-322, a surtax of 7% of the tax liability.

History: En. Sec. 18, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Retroactive Applicability — Termination: Section 39(4), Ch. 15, Sp. L. July 1992, provided that this section applies to tax liabilities for calendar quarters beginning

after June 30, 1992, and before July 1, 1993. This section terminates upon receipt of taxes for the quarter ending June 30, 1993.

CHAPTER 71

LICENSE TAX ON VEHICLES PROPELLED BY LIQUEFIED PETROLEUM GAS

Part 1

General Provisions

15-71-111. *(Temporary)* **Surtax.** Each owner or operator subject to a license tax fee under this part shall pay, in addition to the license tax fee determined under 15-71-101(1), a surtax of 7% of the liability.

History: En. Sec. 19, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Applicability — Termination: Section 39(6), Ch. 15, Sp. L. July 1992, provided that this section applies to the tax year beginning after December 31, 1992, and ending before January 1, 1994. This section terminates upon receipt of taxes for tax year 1993.

TITLE 16

ALCOHOL AND TOBACCO

CHAPTER 1

ADMINISTRATION AND TAXATION

Part 4

Taxation of Alcoholic Beverages

16-1-410. *(Temporary)* **Tax revenue allocation.** Subject to 16-1-422, all revenue received from taxes on beer under 16-1-406 and 16-1-408 over and above $1.50 per barrel of 31 gallons shall be deposited with the state treasurer

to the credit of the incorporated cities and towns beer tax account in the state special revenue fund. The money in the account is statutorily appropriated, as provided in 17-7-502, to the state treasurer who shall, monthly, distribute this amount of money to the incorporated cities and towns in the direct proportion that the population of each city and town bears to the total population of all incorporated cities and towns as shown in the latest official federal census. For cities and towns incorporated after the latest official federal census, the census shall be determined as of the date of incorporation as evidenced by the certificate of the incorporating officials of that city or town. If a city or town disincorporates, it may not receive any funds under this section and the amount previously distributed to the city or town shall be distributed to the remaining incorporated cities and towns. All funds received by cities and towns under this section shall be expended for state purposes such as law enforcement, maintenance of the transportation system, and public health.

16-1-410. *(Effective on receipt of taxes or fees for September 1993)* **Tax revenue allocation.** All revenue received from taxes on beer under 16-1-406 and 16-1-408 over and above $1.50 per barrel of 31 gallons shall be deposited with the state treasurer to the credit of the incorporated cities and towns beer tax account in the state special revenue fund. The money in the account is statutorily appropriated, as provided in 17-7-502, to the state treasurer who shall, monthly, distribute this amount of money to the incorporated cities and towns in the direct proportion that the population of each city and town bears to the total population of all incorporated cities and towns as shown in the latest official federal census. For cities and towns incorporated after the latest official federal census, the census shall be determined as of the date of incorporation as evidenced by the certificate of the incorporating officials of that city or town. If a city or town disincorporates, it may not receive any funds under this section and the amount previously distributed to the city or town shall be distributed to the remaining incorporated cities and towns. All funds received by cities and towns under this section shall be expended for state purposes such as law enforcement, maintenance of the transportation system, and public health.

History: En. 4-347.1 by Sec. 4, Ch. 421, L. 1971; Sec. 4-347.1, R.C.M. 1947; amd. and redes. 4-1-408 by Sec. 73, Ch. 387, L. 1975; R.C.M. 1947, 4-1-408; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 14, Ch. 703, L. 1985; amd. Sec. 20, Ch. 83, L. 1989; amd. Sec. 23, Ch. 15, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 15, Sp. L. July 1992, at beginning inserted reference to 16-1-422.

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Applicability — Termination: Section 39(5), Ch. 15, Sp. L. July 1992, provided that this section applies for 1 calendar year to tax or fee liabilities for months beginning after August 14, 1992. This section terminates upon receipt of taxes or fees for the final month of applicability.

16-1-411. *(Temporary)* **Tax on wine.** (1) A tax of 27 cents per liter is hereby levied and imposed on table wine imported by any table wine distributor or the department.

(2) (a) The tax on table wine imported by a table wine distributor shall be paid by the table wine distributor by the 15th day of the month following sale of the table wine from the table wine distributor's warehouse. Failure to file a table wine tax return or failure to pay the tax required by this section subjects the table wine distributor to the penalties and interest provided for in 16-1-409.

(b) The tax on table wine imported by the department shall be collected at the time of sale.

(3) The tax paid by a table wine distributor in accordance with subsection (2)(a) and the tax collected by the department in accordance with subsection (2)(b) shall be distributed as follows:

(a) 16 cents to the state general fund; and

(b) of the remaining 11 cents:

(i) 8.34 cents to the state special revenue fund to the credit of the department of corrections and human services for the treatment, rehabilitation, and prevention of alcoholism;

(ii) 1 ⅓ cents is statutorily appropriated, as provided in 17-7-502, to the department, for allocation to the counties, based on population, for the purpose established in 16-1-404; and

(iii) 1 ⅓ cents is statutorily appropriated, as provided in 17-7-502, to the department, for allocation to the cities and towns, based on population, for the purpose established in 16-1-405.

(4) The taxes computed and paid in accordance with 16-1-423, 16-2-301, and this section shall be the only taxes imposed by the state or any of its subdivisions, including cities and towns.

(5) The proceeds of the surtax imposed by 16-1-423 must be deposited in the state general fund.

16-1-411. *(Effective on receipt of taxes or fees for September 1993)* **Tax on wine.** (1) A tax of 27 cents per liter is hereby levied and imposed on table wine imported by any table wine distributor or the department.

(2) (a) The tax on table wine imported by a table wine distributor shall be paid by the table wine distributor by the 15th day of the month following sale of the table wine from the table wine distributor's warehouse. Failure to file a table wine tax return or failure to pay the tax required by this section subjects the table wine distributor to the penalties and interest provided for in 16-1-409.

(b) The tax on table wine imported by the department shall be collected at the time of sale.

(3) The tax paid by a table wine distributor in accordance with subsection (2)(a) and the tax collected by the department in accordance with subsection (2)(b) shall be distributed as follows:

(a) 16 cents to the state general fund; and

(b) of the remaining 11 cents:

(i) 8.34 cents to the state special revenue fund to the credit of the department of corrections and human services for the treatment, rehabilitation, and prevention of alcoholism;

(ii) 1 ⅓ cents is statutorily appropriated, as provided in 17-7-502, to the department, for allocation to the counties, based on population, for the purpose established in 16-1-404; and

(iii) 1 ⅓ cents is statutorily appropriated, as provided in 17-7-502, to the department, for allocation to the cities and towns, based on population, for the purpose established in 16-1-405.

(4) The tax computed and paid in accordance with this section shall be the only tax imposed by the state or any of its subdivisions, including cities and towns.

History: En. Sec. 9, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 5, Ch. 699, L. 1979; amd. Sec. 1, Ch. 219, L. 1981; amd. Sec. 1, Ch. 241, L. 1981; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 15, Ch. 703, L. 1985; amd. Sec. 2, Ch. 721, L. 1985; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 24, Ch. 15, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 15, Sp. L. July 1992, in (4) inserted references to 16-1-423 and 16-2-301; inserted (5) concerning deposit of surtax; and made minor changes in style.

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Applicability — Termination: Section 39(5), Ch. 15, Sp. L. July 1992, provided that this section applies for 1 calendar year to tax or fee liabilities for months beginning after August 14, 1992. This section terminates upon receipt of taxes or fees for the final month of applicability.

1991 Amendment — Instructions to Code Commissioner: The Code Commissioner changed "department of institutions" to "department of corrections and human services", pursuant to sec. 1, Ch. 262, L. 1991, directing the Code Commissioner to make the change wherever necessary in the Montana Code Annotated. Amendment effective July 1, 1991.

16-1-421. *(Temporary)* **Surtax on liquor — distribution.** (1) In addition to the amount of tax liability determined under 16-1-401 through 16-1-403, each person subject to taxation under 16-1-401 through 16-1-403 shall pay, as a surtax, 7% of the tax liability.

(2) The surtax imposed by this section must be deposited to the credit of the state general fund.

History: En. Sec. 20, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Applicability — Termination: Section 39(5), Ch. 15, Sp. L. July 1992, provided that this section applies for 1 calendar year to tax or fee liabilities for months beginning after August 14, 1992. This section terminates upon receipt of taxes or fees for the final month of applicability.

16-1-422. *(Temporary)* **Surtax on beer — distribution.** (1) After the amount of tax liability has been determined under 16-1-406 and 16-1-408, each wholesaler subject to taxation under this part shall pay, as a surtax, 7% of the tax liability.

(2) The surtax imposed by this section must be deposited to the credit of the state general fund.

History: En. Sec. 21, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Applicability — Termination: Section 39(5), Ch. 15, Sp. L. July 1992, provided that this section applies for 1 calendar year to tax or fee liabilities for months beginning after August 14, 1992. This section terminates upon receipt of taxes or fees for the final month of applicability.

16-1-423. *(Temporary)* **Surtax on table wine — distribution.** (1) In addition to the amount of tax liability determined under 16-1-411, each table wine distributor subject to taxation under this part shall pay, as a surtax, 7% of the tax liability.

(2) The surtax imposed by this section must be deposited to the credit of the state general fund.

History: En. Sec. 22, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Applicability — Termination: Section 39(5), Ch. 15, Sp. L. July 1992, provided that this section applies for 1 calendar year to tax or fee liabilities for months beginning after August 14, 1992. This section terminates upon receipt of taxes or fees for the final month of applicability.

CHAPTER 11

TAXATION OF TOBACCO PRODUCTS

Part 1

Tax on Cigarettes

16-11-111. *(Temporary)* **Cigarette sales tax.** There is levied, imposed, and assessed and there must be collected and paid to the state of Montana upon cigarettes sold or possessed in this state an excise tax of 19.26 cents on each package containing 20 cigarettes and, when packages contain more or less than 20 cigarettes, a tax on each cigarette equal to 1/20th the tax on a package containing 20 cigarettes.

16-11-111. *(Effective August 15, 1993)* **Cigarette sales tax.** There is levied, imposed, and assessed and there must be collected and paid to the state of Montana upon cigarettes sold or possessed in this state an excise tax of 18 cents on each package containing 20 cigarettes and, when packages contain more or less than 20 cigarettes, a tax on each cigarette equal to 1/20th the tax on a package containing 20 cigarettes.

History: En. Sec. 6, Ch. 289, L. 1947; amd. Sec. 16, Initiative No. 54 (L. 1951, p. 781); amd. Sec. 1, Ch. 123, L. 1953; amd. Sec. 3, Ch. 18, L. 1957; amd. Sec. 7, Ch. 44, L. 1957; amd. Sec. 1, Ch. 222, L. 1957; amd. Sec. 1, Ch. 97, L. 1963; amd. Sec. 6, Ch. 270, L. 1963; amd. Sec. 5, Ch. 318, L. 1967; amd. Sec. 4, Ch. 222, L. 1971; R.C.M. 1947, 84-5606(2) thru

(4); amd. Sec. 1, Ch. 267, L. 1981; amd. Sec. 1, Ch. 608, L. 1983; amd. Sec. 1, Ch. 450, L. 1985; amd. Sec. 1, Ch. 704, L. 1985; amd. Sec. 2, Ch. 681, L. 1989; amd. Sec. 2, Ch. 130, L. 1991; amd. Sec. 25, Ch. 15, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 15, Sp. L. July 1992, increased tax from 18 cents to 19.26 cents.

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Applicability — Termination: Section 39(8), Ch. 15, Sp. L. July 1992, provided that this section applies for 1 calendar year to tax liabilities beginning August 15, 1992. This section terminates August 15, 1993.

1991 Amendment: Near middle, after "excise tax", deleted "which shall be paid prior to the time of sale and delivery of cigarettes"; and made minor changes in style. Amendment effective July 1, 1991.

16-11-119. *(Temporary)* **Disposition of taxes — retirement of bonds.** (1) Except as provided in subsection (2), all money collected under the provisions of 16-11-111, less the expense of collecting the taxes, must be paid to the state treasurer and deposited as follows: 72.79% in the long-range building program fund in the debt service fund type and 27.21% in the long-range building program fund in the capital projects fund type.

(2) In fiscal year 1993, $1,133,624 is transferred from the long-range building program fund in the capital projects fund type to the general fund. *(Terminates June 30, 1993—sec. 2, Ch. 3, Sp. L. July 1992.)*

16-11-119. *(Effective July 1, 1993)* **Disposition of taxes — retirement of bonds.** All moneys collected under the provisions of 16-11-111, less the expense of collecting all the taxes levied, imposed, and assessed by said section, shall be paid to the state treasurer and deposited as follows: 72.79% in the long-range building program fund in the debt service fund type and 27.21% in the long-range building program fund in the capital projects fund type.

16-11-119. *(Effective August 15, 1993)* **Disposition of taxes — retirement of bonds.** All moneys collected under the provisions of 16-11-111, less the expense of collecting all the taxes levied, imposed, and assessed by said section, shall be paid to the state treasurer and deposited as follows: 70.89% in the long-range building program fund in the debt service fund type and 29.11% in the long-range building program fund in the capital projects fund type.

History: En. Sec. 29, Ch. 140, L. 1969; amd. Sec. 5, Ch. 222, L. 1971; amd. Sec. 222, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.30(part); amd. Sec. 3, Ch. 267, L. 1981; amd. Sec. 7, Ch. 281, L. 1983; amd. Sec. 2, Ch. 608, L. 1983; amd. Sec. 2, Ch. 704, L. 1985; amd. Sec. 3, Ch. 681, L. 1989; amd. Sec. 1, Ch. 3, Sp. L. July 1992; amd. Sec. 26, Ch. 15, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendments: Chapter 3, Sp. L. July 1992, in (1), at beginning, inserted exception clause and after "taxes" deleted "levied, imposed, and assessed by said section"; inserted (2) transferring money to the general fund; and made minor changes in style. Amendment effective July 21, 1992, and terminates June 30, 1993.

Chapter 15, Sp. L. July 1992, increased percentage of proceeds deposited in long-range building program fund from 70.89% to 72.79% and decreased percentage of proceeds deposited in capital projects fund type from 29.11% to 27.21%.

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Applicability — Termination: Section 39(8), Ch. 15, Sp. L. July 1992, provided that this section applies for 1 calendar year to tax liabilities beginning August 15, 1992. This section terminates August 15, 1993.

Part 2

Tax on Tobacco Products Other Than Cigarettes

16-11-202. *(Temporary)* **Tax on sale of tobacco other than cigarettes — imposed on retail consumer — rate of tax.** (1) All taxes paid pursuant to the provisions of this section shall be exclusively presumed to be direct taxes on the retail consumer, precollected for the purpose of convenience and facility only. When the tax is paid by any other person, such payment shall be considered as an advance payment and shall be added to the price of tobacco products other than cigarettes and recovered from the ultimate consumer or user. Any person selling tobacco products other than cigarettes at retail shall state or separately display in the premises where such products are sold a notice of the tax included in the selling price and charged or payable pursuant to this section. The provisions of this section shall in no way affect the method of collection of such tax as hereinafter provided.

(2) There is hereby levied, imposed, and assessed upon tobacco products other than cigarettes sold or possessed in this state and there shall be collected and paid to the state of Montana a tax of 13.38% of the wholesale price of such products to the wholesaler, excepting therefrom such products as may be shipped from Montana and destined for retail sale and consumption outside the state of Montana.

16-11-202. *(Effective August 15, 1993)* **Tax on sale of tobacco other than cigarettes — imposed on retail consumer — rate of tax.** (1) All taxes paid pursuant to the provisions of this section shall be exclusively presumed to be direct taxes on the retail consumer, precollected for the purpose of convenience and facility only. When the tax is paid by any other person, such payment shall be considered as an advance payment and shall be added to the price of tobacco products other than cigarettes and recovered from the ultimate consumer or user. Any person selling tobacco products other than cigarettes at retail shall state or separately display in the premises where such products are sold a notice of the tax included in the selling price and charged or payable pursuant to this section. The provisions of this section shall in no way affect the method of collection of such tax as hereinafter provided.

(2) There is hereby levied, imposed, and assessed upon tobacco products other than cigarettes sold or possessed in this state and there shall be collected and paid to the state of Montana a tax of 12 ½% of the wholesale price of such products to the wholesaler, excepting therefrom such products as may be shipped from Montana and destined for retail sale and consumption outside the state of Montana.

History: En. Sec. 2, Ch. 12, Ex. L. 1969; R.C.M. 1947, 84-6802; amd. Sec. 27, Ch. 15, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 15, Sp. L. July 1992, in (2) increased tax rate from 12.5% to 13.38%.

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Applicability — Termination: Section 39(8), Ch. 15, Sp. L. July 1992, provided that this section applies for 1 calendar year to tax liabilities beginning August 15, 1992. This section terminates August 15, 1993.

TITLE 17

STATE FINANCE

CHAPTER 5

PUBLIC BOND ISSUES

Part 7

Coal Severance Tax Bonds — Water Development

17-5-701. State of Montana coal severance tax bonds. This part provides for the issuance of state of Montana coal severance tax bonds (also referred to as coal severance tax bonds in this part) to:

(1) finance water resource development projects and activities in the state designed to provide, during and after extensive coal mining, a healthy economy, the alleviation of social and economic impacts created by coal development, and a clean and healthful environment for present and future generations; and

(2) finance loans to local governments for infrastructure projects under Title 90, chapter 6, part 7.

History: En. Sec. 24, Ch. 505, L. 1981; amd. Sec. 3, Ch. 3, Sp. L. January 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 3, Sp. L. January 1992, inserted (2) concerning infrastructure projects. Amendment effective October 1, 1992.

17-5-703. Coal severance tax trust funds. (1) The trust established under Article IX, section 5, of the Montana constitution shall be composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax shall be deposited;

(b) a treasure state endowment fund;

(c) a clean coal technology demonstration fund;

(d) a coal severance tax permanent fund;

(e) a coal severance tax income fund; and

(f) a coal severance tax school bond contingency loan fund.

(2) The state treasurer shall determine the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund on the next two ensuing semiannual payment dates and retain that amount in the coal severance tax bond fund.

(3) (a) On January 21, 1992, and continuing as long as any school district bonds secured by state loans under 20-9-466 are outstanding, the state treasurer shall from time to time and as provided in subsection (3)(b) transfer from the coal severance tax bond fund to the coal severance tax school bond contingency loan fund any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless the balance in the coal severance tax school bond contingency loan fund is equal to the amount due as principal of and interest on the school district bonds secured by state loans under 20-9-466 during the next following 12 months.

(4) Beginning July 1, 1991, and ending June 30, 1997, from any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of any amount that is required to be transferred by subsection (3), the state treasurer shall from time to time transfer an amount not exceeding $5 million per fiscal year to the clean coal technology demonstration fund.

(5) Beginning July 1, 1993, and ending June 30, 2013, the state treasurer shall transfer to the treasure state endowment fund any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant to subsections (3) and (4).

(6) (a) Beginning July 1, 1993, and ending June 30, 2013, the state treasurer shall from time to time transfer to the coal severance tax permanent fund 50% of the principal transferred from the coal severance tax bond fund to the treasure state endowment fund in the preceding year.

(b) The state treasurer shall annually transfer to the treasure state endowment special revenue account the amount of interest earnings required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Interest earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund.

History: En. Sec. 26, Ch. 505, L. 1981; amd. Sec. 18, Ch. 298, L. 1983; amd. Sec. 2, Ch. 512, L. 1985; amd. Sec. 3, Ch. 722, L. 1991; amd. Secs. 3, 7, Ch. 12, Sp. L. January 1992.

Compiler's Comments

1992 Special Session Amendment: Section 7, Ch. 12, Sp. L. January 1992, inserted (1)(b) creating a treasure state endowment fund; inserted (1)(f) creating a coal severance tax school bond contingency loan fund; inserted (3) providing for transfer of funds necessary for yearly payment of principal and interest on school bonds secured by state loans to the coal severance tax school bond contingency loan fund; in (4), after "1997", inserted language requiring transfer of excess amounts in the coal severance tax bond fund and coal severance tax school bond contingency loan fund to the clean coal technology demonstration fund, after "transfer" substituted "an amount not exceeding $5 million" for "from the excess amount in the coal severance tax bond fund $5 million", after "million" substituted "per fiscal year" for "a year", and after "fund" deleted "and any remaining amount to the coal severance tax permanent fund"; inserted (5)

providing for transfers to the treasure state endowment fund; and inserted (6) concerning transfer of funds from the treasure state endowment fund to the coal severance tax permanent fund and the deposit of earnings in the treasure state endowment special revenue account. Amendment effective June 2, 1992.

Effective on Occurrence of Contingency: Section 8(2), Ch. 12, Sp. L. January 1992, provided: "(2) If House Bill No. 19 is passed and is approved by the electorate, then [section 3 of this act] [amending 17-5-703] and [section 4 of House Bill No. 19] [amending 17-5-703] are void and [section 7 of this act] [amending 17-5-703] is effective on the date of approval by the electorate." House Bill No. 19 was approved by the electorate June 2, 1992.

1991 Amendment: Inserted (1)(b) creating clean coal technology demonstration fund; in (2), after "shall", deleted "from time to time transfer to the coal severance tax permanent fund all money in the coal severance tax bond fund except" and inserted "determine" and at end inserted "and retain that amount in the coal severance tax bond fund"; and inserted (3) providing for transfer of funds to clean coal technology demonstration fund and coal severance tax permanent fund. Amendment effective July 1, 1991.

CHAPTER 7

BUDGETING AND APPROPRIATIONS

Part 1

Budget Systems and Program Plans

17-7-111. Agency program budgets — form distribution and contents. (1) In the preparation of a state budget, the budget director shall, not later than July 1 in the year preceding the convening of the legislature, distribute to all state offices and departments, including the judicial branch and the legislative branch, the proper forms necessary for the preparation of budget estimates. These forms shall be prescribed by the budget director to procure the information required by subsection (2).

(2) The agency budget requests, when completed by the budget office, must set forth a balanced financial plan for the agency completing the forms for each fiscal year of the ensuing biennium. The plan must consist of:

(a) a consolidated agency budget summary for current level expenditures and for each modification request setting forth the aggregate figures of the full-time equivalent personnel positions (FTE) and the budget in such manner as to show a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last completed fiscal year and the fiscal year in progress. The consolidated budget summary must be supported by schedules classifying receipts and disbursements contained therein by fund and, where applicable, organizational unit.

(b) a schedule of the actual and projected receipts, disbursements, and solvency of each accounting entity within each fund for the current and subsequent biennium;

(c) a detailed schedule of receipts, by accounting entity within each fund, indicating classification and source of funds;

(d) an agency schedule summarizing past and proposed spending plans and the means of financing the proposed plan. Information presented shall include the following:

(i) a statement of agency goals and objectives and a statement of goals and objectives for each program of the agency. Such goals and objectives must include, in a concise form, sufficient specific information and quantifiable information to enable the legislature to formulate an appropriations policy regarding the agency and its programs and to allow a determination, at some future date, on whether the agency has succeeded in attaining its goals and objectives. The goals and objectives must contain a list of duties prioritized by the department director to reflect the director's opinion concerning the importance of the duties assigned to the agency by law. Any discretionary programs established by the agency that are not required by law must also be enumerated.

(ii) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated FTE and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by program; and

(iii) actual disbursements for the completed fiscal year of the current biennium, estimated disbursements for the current fiscal year, and the agency's recommendations for the ensuing biennium, by disbursement category;

(e) any other information the budget director feels is necessary for the preparation of a budget.

(3) The budget director must also prepare and submit to the legislative fiscal analyst in accordance with 17-7-112:

(a) detailed recommendations for the state long-range building program. Each recommendation shall be presented by department, institution, agency, or branch by funding source, with a description of each proposed project; and

(b) the proposed pay plan schedule for all executive branch employees, with the specific cost and funding recommendations for each agency. Submission of a pay plan schedule under this subsection is not an unfair labor practice under 39-31-401.

(4) The board of regents shall submit, with its budget request for each university unit in accordance with 17-7-112, a report on the university system bonded indebtedness and related finances as provided in this subsection (4). The report must include the following information for each year of the biennium, contrasted with the same information for the last completed fiscal year and the fiscal year in progress:

(a) a schedule of estimated total bonded indebtedness for each university unit by bond indenture;

(b) a schedule of estimated revenue, expenditures, and fund balances by fiscal year for each outstanding bond indenture, clearly delineating the accounts relating to each indenture and the minimum legal funding requirements for each bond indenture; and

(c) a schedule showing the total funds available from each bond indenture and its associated accounts, with a list of commitments and planned expen-

ditures from such accounts, itemized by revenue source and project for each year of the current and ensuing bienniums.

History: En. Sec. 2, Ch. 158, L. 1959; amd. Sec. 1, Ch. 91, L. 1961; amd. Sec. 1, Ch. 223, L. 1969; amd. Sec. 2, Ch. 282, L. 1974; R.C.M. 1947, 79-1013(part); amd. Sec. 1, Ch. 666, L. 1983; amd. Sec. 1, Ch. 343, L. 1985; amd. Sec. 4, Ch. 5, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 5, Sp. L. July 1992, in (2)(d)(i) inserted last two sentences concerning prioritized list of duties and discretionary programs. Amendment effective July 24, 1992.

17-7-138. *(Temporary)* **Operating budget.** (1) Expenditures by a state agency must be made in substantial compliance with an operating budget approved by an approving authority. Substantial compliance means that a first-level category in the operating budget may not be exceeded by more than 5%. Except as provided in subsection (2), the expenditure of money appropriated in the general appropriations act is contingent upon approval of an operating budget approved by an approving authority within 45 days after the effective date of the general appropriations act or a revision of the general appropriations act. An approved original operating budget must comply with state law and any statement of intent adopted as part of a bill.

(2) The expenditure of money appropriated in the general appropriations act to the university system units, as defined in 17-7-102, is contingent upon approval of an operating budget by October 1 of each fiscal year. All other requirements in this section apply to the university system.

(3) The operating budget for money appropriated by the general appropriations act must be separate from the operating budget for money appropriated by another law except a law appropriating money for the state pay plan or any portion of the state pay plan. Each operating budget must include expenditures for each agency program, detailed at least by first-level categories as provided in 17-1-102(3). Each agency shall record its operating budget and any approved changes on the statewide budget and accounting system. Forms used for changing an operating budget must reference the current, complete, and approved operating budget, show the proposed changes to the operating budget, and reference any other pending documents to change the operating budget. *(Terminates June 30, 1993—sec. 2, Ch. 8, Sp. L. July 1992.)*

17-7-138. *(Effective July 1, 1993)* **Operating budget.** (1) Expenditures by a state agency must be made in substantial compliance with an operating budget approved by an approving authority. Substantial compliance means that a first-level category in the operating budget may not be exceeded by more than 5%. Except as provided in subsection (2), the expenditure of money appropriated in the general appropriations act is contingent upon approval of an operating budget by August 1 of each fiscal year. An approved original operating budget must comply with state law and any statement of intent adopted as part of a bill.

(2) The expenditure of money appropriated in the general appropriations act to the university system units, as defined in 17-7-102, is contingent upon approval of an operating budget by October 1 of each fiscal year. All other requirements in this section apply to the university system.

(3) The operating budget for money appropriated by the general appropriations act must be separate from the operating budget for money appropriated by another law except a law appropriating money for the state pay plan or any portion of the state pay plan. Each operating budget must include expenditures for each agency program, detailed at least by first-level categories as provided in 17-1-102(3). Each agency shall record its operating budget and any approved changes on the statewide budget and accounting system. Forms used for changing an operating budget must reference the current, complete, and approved operating budget, show the proposed changes to the operating budget, and reference any other pending documents to change the operating budget.

History: En. Sec. 8, Ch. 787, L. 1991; amd. Sec. 1, Ch. 8, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 8, Sp. L. July 1992, in (1), in third sentence, substituted "approved by an approving authority within 45 days after the effective date of the general appropriations act or a revision of the general appropriations act" for "by August 1 of each fiscal year". Amendment effective August 6, 1992, and terminates June 30, 1993.

17-7-140. Reduction in spending. (1) (a) As the chief budget officer of the state, the governor shall ensure that the expenditure of appropriations does not exceed available revenue. Except as provided in subsection (2), in the event of a projected general fund budget deficit, the governor, taking into account the criteria provided in subsection (1)(b), shall direct agencies to reduce spending in an amount that ensures that the projected ending general fund balance for the biennium will be at least 1% of all general fund appropriations during the biennium. An agency may not be required to reduce general fund spending for any program, as defined in each general appropriations act, by more than 10% during a biennium. Departments or agencies headed by elected officials or the board of regents may not be required to reduce general fund spending by a percentage greater than the percentage of general fund spending reductions required for the total of all other executive branch agencies. The legislature may exempt from a reduction an appropriation item within a program or may direct that the appropriation item may not be reduced by more than 10%.

(b) The governor shall direct agencies to manage their budgets in order to reduce general fund expenditures. Prior to directing agencies to reduce spending as provided in subsection (1)(a), the governor shall direct each agency to analyze the nature of each program that receives a general fund appropriation to determine whether the program is mandatory or permissive and to analyze the impact of the proposed reduction in spending on the purpose of the program. An agency shall submit its analysis to the office of budget and program planning and shall at the same time provide a copy of the analysis to the legislative fiscal analyst. The office of budget and program planning shall review each agency's analysis, and the budget director shall submit to the governor a copy of the office of budget and program planning's recommendations for reductions in spending. The budget director shall provide a copy of the recommendations to the legislative fiscal analyst at the time the recommendations are submitted to the governor and shall provide the legislative fiscal analyst with any proposed changes to the recommendations.

The legislative finance committee shall meet within 20 days of the date that the proposed changes to the recommendations for reductions in spending are provided to the legislative fiscal analyst. The legislative fiscal analyst shall provide a copy of the legislative fiscal analyst's review of the proposed reductions in spending to the budget director at least 5 days before the meeting of the legislative finance committee. The committee may make recommendations concerning the proposed reductions in spending. The governor shall consider each agency's analysis and the recommendations of the office of budget and program planning and the legislative finance committee in determining the agency's reduction in spending. Reductions in spending must be designed to have the least adverse impact on the provision of services determined to be most integral to the discharge of the agency's statutory responsibilities.

(2) Reductions in spending for the following may not be directed by the governor:

(a) payment of interest and principal on state debt;

(b) the legislative branch;

(c) the judicial branch;

(d) the school foundation program, including special education; and

(e) salaries of elected officials during their terms of office.

(3) (a) As used in this section, "projected general fund budget deficit" means an amount, certified by the budget director to the governor, by which the projected ending general fund balance for the biennium is less than 2% of the general fund appropriations for the second fiscal year of the biennium. In determining the amount of the projected general fund budget deficit, the budget director shall take into account revenue, established levels of appropriation, anticipated supplemental appropriations for school equalization aid, and anticipated reversions.

(b) If the budget director determines that an amount of actual or projected receipts will result in an amount less than the amount projected to be received in the revenue estimate established pursuant to 5-18-107, the budget director shall notify the revenue oversight committee of the estimated amount. Within 20 days of notification, the revenue oversight committee shall provide the budget director with any recommendations concerning the amount. The budget director shall consider any recommendations of the revenue oversight committee prior to certifying a projected general fund budget deficit to the governor.

History: En. Sec. 10, Ch. 787, L. 1991; amd. Sec. 1, Ch. 5, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 5, Sp. L. July 1992, substituted current language (see July 1992 Special Session Law for text) for former text providing for reduction of appropriations by up to 15% in the event of a shortfall in revenue. Amendment effective July 24, 1992.

Effective Date: Section 22, Ch. 787, L. 1991, provided that this section is effective July 1, 1991.

Part 3

Supplemental Appropriations, Encumbrances, and Reversions

17-7-304. *(Temporary)* **Disposal of unexpended appropriations.** (1) All money appropriated for any specific purpose except those appropriated for the university system units listed in subsection (2) shall, after the expiration of the time for which appropriated, revert to the several funds and accounts from which originally appropriated. However, any unexpended balance in any specific appropriation may be used for the years for which the appropriation was made.

(2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for the university of Montana at Missoula, Montana state university at Bozeman, Montana college of mineral science and technology at Butte, eastern Montana college at Billings, northern Montana college at Havre, western Montana college of the university of Montana at Dillon, the agricultural experiment station with central offices at Bozeman, the forest and conservation experiment station with central offices at Missoula, the cooperative extension service with central offices at Bozeman, the bureau of mines and geology with central offices in Butte, and the vocational-technical centers at Billings, Butte, Great Falls, Helena, and Missoula must, after the expiration of the time for which appropriated, revert to an account held by the board of regents. The board of regents is authorized to maintain a fund balance. There is a statutory appropriation, as provided in 17-7-502, to use the funds held in this account in accordance with a long-term plan for major and deferred maintenance expenditures and equipment or fixed assets purchases prepared by the affected university system units and approved by the board of regents. The affected university system units may, with the approval of the board of regents, modify the long-term plan at any time to address changing needs and priorities. The board of regents shall communicate the plan to each legislature, to the finance committee when requested by the committee, and to the office of budget and program planning.

(3) Subsection (2) does not apply to reversions that are the result of a reduction in spending directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending directed by the governor must revert to the fund or account from which it was originally appropriated. *(Terminates June 30, 1996—sec. 23, Ch. 787, L. 1991; sec. 5, Ch. 5, Sp. L. July 1992.)*

17-7-304. *(Effective July 1, 1996)* **Disposal of unexpended appropriations.** All moneys appropriated for any specific purpose except those appropriated for the university system units listed in subsection (2) shall, after the expiration of the time for which so appropriated, revert to the several funds and accounts from which originally appropriated. However, any unexpended balance in any specific appropriation may be used for the years for which the appropriation was made.

History: En. Sec. 2, H.B. 372, p. 16, L. 1895, not published in the codes; re-en. Sec. 304, R.C.M. 1921; re-en. Sec. 304, R.C.M. 1935; amd. Sec. 14, Ch. 147, L. 1963; Sec. 79-1011, R.C.M. 1947; amd. and redes. 79-1015.3 by Sec. 32, Ch. 326, L. 1974; R.C.M. 1947, 79-1015.3; amd. Sec. 6, Ch. 787, L. 1991; amd. Sec. 2, Ch. 5, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 5, Sp. L. July 1992, near beginning of (2) inserted reference to subsection (3); inserted (3) concerning reversions that result from a reduction in spending directed by the Governor; and made minor changes in style. Amendment effective July 24, 1992, and terminates June 30, 1996.

1991 Amendment: In (1) added exception for money appropriated for University System units; and inserted (2) relating to appropriations to University System units. Amendment effective July 1, 1991.

Applicability: Section 21, Ch. 787, L. 1991, provided: "[Section 6(2)] applies to reversions due from fiscal year 1991."

Termination: Section 23, Ch. 787, L. 1991, provided: "[Section 6(2)] terminates June 30, 1996."

TITLE 20

EDUCATION

CHAPTER 7

SCHOOL INSTRUCTION AND SPECIAL PROGRAMS

Part 4

Special Education for Exceptional Children

20-7-442. State transportation reimbursement for special education children. Districts providing children with transportation to a special education class or program and complying with the special education transportation regulations promulgated by the superintendent of public instruction shall be eligible for a transportation reimbursement. The reimbursement shall be calculated from a schedule established by the superintendent of public instruction with the state providing 50% of the reimbursement.

History: En. 75-7815 by Sec. 433, Ch. 5, L. 1971; R.C.M. 1947, 75-7815; amd. Sec. 4, Ch. 711, L. 1991; amd. Sec. 1, Ch. 9, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 9, Sp. L. July 1992, in second sentence reduced from 100% to 50% the amount of transportation reimbursement provided by the state. Amendment effective August 6, 1992.

1991 Amendment: At end substituted "-100% of the reimbursement" for "two-thirds of the reimbursement and the county in which the children reside providing the remainder". Amendment effective July 1, 1991.

Part 5

Traffic Education

20-7-504. *(Temporary)* **State traffic education account — proceeds earmarked for the account.** (1) There is a traffic education account in the treasury of the state of Montana. Except as provided in subsection (4), there must be paid into this account a portion of the fines and forfeitures collected in any court except a justice's court from persons apprehended or arrested by highway patrol officers or department of transportation peace officers for any violation of chapter 3, part 1 of chapter 4, or chapters 5 through 10 of Title 61 relating to the operation or use of motor vehicles in the following amounts:

(a) if a fine is imposed, 25% of the fine imposed;

(b) if multiple offenses are involved, 25% of the total sum of all fines imposed;

(c) if a fine is suspended, in whole or in part, 25% of the fine actually paid; and

(d) if any deposit of bail is made for an offense to which this section applies and the bail is forfeited, 25% of the forfeited bail.

(2) A portion of all money from the collection of fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses must be contributed to the traffic education account as provided in 61-5-121.

(3) Money collected and accrued from motorcycle safety training courses, designated grants, and motorcycle registration fees or an amount equal to that amount must be deposited in the state traffic education account as provided in 20-7-513 and 20-7-514 and must be available to support only approved motorcycle safety training courses, appropriate motorcycle safety instructor training, and other related motorcycle safety training activities.

(4) On August 6, 1992, the superintendent of public instruction shall transfer $300,000 from the state traffic education account to the general fund. *(Terminates September 2, 1992—sec. 8(2), Ch. 11, Sp. L. July 1992.)*

20-7-504. *(Effective September 2, 1992)* **State traffic education account — proceeds earmarked for the account.** (1) There is a traffic education account in the treasury of the state of Montana. There must be paid into this account a portion of the fines and forfeitures collected in any court except a justice's court from persons apprehended or arrested by highway patrol officers or department of transportation peace officers for any violation of chapter 3, part 1 of chapter 4, or chapters 5 through 10 of Title 61 relating to the operation or use of motor vehicles in the following amounts:

(a) if a fine is imposed, 25% of the fine imposed;

(b) if multiple offenses are involved, 25% of the total sum of all fines imposed;

(c) if a fine is suspended, in whole or in part, 25% of the fine actually paid; and

(d) if any deposit of bail is made for an offense to which this section applies and the bail is forfeited, 25% of the forfeited bail.

(2) A portion of all money from the collection of fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses must be contributed to the traffic education account as provided in 61-5-121.

(3) Money collected and accrued from motorcycle safety training courses, designated grants, and motorcycle registration fees or an amount equal to that amount must be deposited in the state traffic education account as provided in 20-7-513 and 20-7-514 and must be available to support only approved motorcycle safety training courses, appropriate motorcycle safety instructor training, and other related motorcycle safety training activities.

History: En. 75-7902 by Sec. 436, Ch. 5, L. 1971; R.C.M. 1947, 75-7902; amd. Sec. 96, Ch. 421, L. 1979; amd. Sec. 1, Ch. 487, L. 1981; amd. Sec. 7, Ch. 277, L. 1985; amd. Sec. 13, Ch. 557, L. 1987; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 6, Ch. 701, L. 1991; amd. Sec. 2, Ch. 11, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 11, Sp. L. July 1992, in (1), at beginning of second sentence, inserted exception clause; and inserted (4) transferring $300,000 from the state traffic education account to the general fund. Amendment effective August 6, 1992, and terminates September 2, 1992.

1991 Amendments: Chapter 512 substituted references to Department of Transportation for references to Department of Highways. Amendment effective July 1, 1991.

Chapter 701 inserted (3) regarding accrual and dispensation of funds in the state traffic education account; and made minor changes in style. Amendment effective July 1, 1991.

Transfer of Money: Section 3, Ch. 701, L. 1991, provided: "Any money remaining in the motorcycle safety training account after [the effective date of this act] [effective July 1, 1991] is transferred into the state traffic education account provided for in 20-7-504."

CHAPTER 9

FINANCE

Part 1

School Budgets

20-9-104. *(Temporary)* **General fund operating reserve.** (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (5) through (7), the amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund budget for the ensuing school fiscal year.

(2) The amount held as operating reserve may not be used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts.

(3) Excess reserves as provided in subsection (5) may be appropriated to reduce the permissive levy provided by 20-9-145 or to reduce the voted levy provided by 20-9-353.

(4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for property tax reduction as provided in 20-9-141(1)(b)(iii).

(5) For fiscal year 1994 and subsequent fiscal years, the limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than one or more of the following:

(a) any amount received under Public Law 81-874;

(b) the unused balance of any amount received:

(i) in settlement of tax payments protested in a prior school fiscal year;

(ii) in taxes from a prior school fiscal year as a result of a tax audit by the department of revenue or its agents; and

(iii) in delinquent taxes from a prior school fiscal year; or

(c) any amount received as a general bonus payment under 20-6-401.

(6) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is $10,000 or less.

(7) For fiscal year 1993, the limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than the amounts identified by a school district as one or more of the following:

(a) any amount received under Public Law 81-874;

(b) the unused balance of any amount received:

(i) in settlement of tax payments protested in a prior school fiscal year;

(ii) in taxes from a prior school fiscal year as a result of a tax audit by the department of revenue or its agents; and

(iii) in delinquent taxes from a prior school fiscal year; or

(c) any amount received as a general bonus payment under 20-6-401.

20-9-104. *(Effective on occurrence of contingency)* **General fund operating reserve.** (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (5) through (7), the amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund budget for the ensuing school fiscal year.

(2) The amount held as operating reserve may not be used for property tax reduction in the manner permitted by 20-9-141(1)(b) for other receipts.

(3) Any unreserved fund balance that is equal to or less than the prior year's excess reserves as provided in subsection (5) may be used to reduce the permissive levy provided by 20-9-145 or to reduce the voted levy provided by 20-9-353.

(4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for property tax reduction as provided in 20-9-141(1)(b)(iii).

(5) For fiscal year 1994 and subsequent fiscal years, the limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than one or more of the following:

(a) any amount received under Public Law 81-874 in the current school fiscal year;

(b) the unused balance of any amount received:

(i) in settlement of tax payments protested in a prior school fiscal year;

(ii) in taxes from a prior school fiscal year as a result of a tax audit by the department of revenue or its agents; and

(iii) in delinquent taxes from a prior school fiscal year; or

(c) any amount received as a general bonus payment under 20-6-401.

(6) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is $10,000 or less.

(7) A district that received Public Law 81-874 money in a prior year and that must reduce its operating reserve to 10% pursuant to this section in the next school fiscal year may consider a percentage of the unreserved fund balance to be an excess amount as provided in subsection (5). The percentage of unreserved fund balance that may be considered an excess amount is the average of the 3 previous years' ratio of total district general fund revenue to Public Law 81-874 money received.

History: En. 75-6924 by Sec. 274, Ch. 5, L. 1971; R.C.M. 1947, 75-6924; amd. Sec. 20, Ch. 11, Sp. L. June 1989; amd. Sec. 7, Ch. 767, L. 1991; amd. Secs. 2, 12, Ch. 6, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendments: Section 2, Ch. 6, Sp. L. July 1992, in (1), in second sentence, substituted "subsections (5) through (7)" for "subsections (5) and (6)" and near end substituted "10%" for "the following percentages"; deleted (1)(a) through (1)(c) limiting the general fund budget to 35% for a district not receiving state equalization aid, 30% for a district receiving aid equal to 25% or less of the foundation program schedule, and 20% for a district receiving aid equal to more than 25% of the foundation program schedule; at beginning of (3) deleted "Any unreserved fund balance that is equal to or less than the prior year's" and substituted "appropriated" for "used"; at beginning of (5) inserted reference to fiscal year 1994 and subsequent fiscal years; and inserted (7) concerning the 1993 fiscal year. Amendment effective July 24, 1992.

Section 12, Ch. 6, Sp. L. July 1992, in (1), in second sentence, substituted "subsections (5) through (7)" for "subsections (5) and (6)" and near end substituted "10%" for "the following percentages"; deleted (1)(a) through (1)(c) limiting the general fund budget to 35% for a district not receiving state equalization aid, 30% for a district receiving aid equal to 25% or less of the foundation program schedule, and 20% for a district receiving aid equal to more than 25% of the foundation program schedule; at beginning of (5) inserted reference to fiscal year 1994 and subsequent fiscal years; in (5)(a), at end, inserted "in the current school fiscal year"; and inserted (7) concerning unreserved balance as an excess amount due to receipt of P.L. 81-874 money.

Retroactive Applicability: Section 15(3), Ch. 6, Sp. L. July 1992, provided that the amendments in section 2 apply retroactively to school district general fund end-of-the-year fund balances for the school fiscal year ending June 30, 1992.

Contingent Effective Date — Applicability: Section 15(5)(a), Ch. 6, Sp. L. July 1992, provided that this section is effective on the date that the Superintendent of Public Instruction certifies to the Governor that written approval of this section has been received from the U.S. Department of Education and applies to the school fiscal year beginning July 1, 1993.

Section 13, Ch. 6, Sp. L. July 1992, provided that within 30 days of July 24, 1992, the Superintendent of Public Instruction shall request an opinion from the U.S. Department of Education as to whether this section complies with federal law for the use of P.L. 81-874 funds.

Termination: Section 15(5)(b), Ch. 6, Sp. L. July 1992, provided that the amendments made by section 2 are void on the date section 12 is effective.

1991 Amendment: In (1), in two places, and in (2) and (6), before "reserve", substituted "operating" for "cash"; in (1), in first sentence before "balance", substituted "fund" for "cash" and in second sentence changed subsection references; inserted (3) allowing use of certain unreserved fund balances to reduce the permissive or voted levy; in (4), after "end-of-the-year", substituted "fund" for "cash" and after

"not" substituted "reserved under subsection (2) or reappropriated under subsection (3) is fund balance" for "earmarked for cash reserve purposes is cash"; in (5), at end, inserted "one or more of the following"; in (5)(a), after "received", deleted "during the current school fiscal year"; in (5)(b)(i), after "protested", substituted "in a prior school fiscal year" for "prior to July 1, 1990"; inserted (5)(b)(ii) regarding taxes received as a result of a tax audit; inserted (5)(b)(iii) regarding delinquent taxes; and made minor changes in style. Amendment effective May 15, 1991.

Retroactive Applicability: Section 59, Ch. 767, L. 1991, provided that this section applies retroactively, within the meaning of 1-2-109, to the school fiscal year beginning July 1, 1990.

20-9-168. Emergency budget amendment tax levy. When a budget amendment has been approved by the superintendent of public instruction under 20-9-161(2) and a district does not have sufficient funds, including insurance proceeds, to finance the budget amendment, the district may levy a tax in the ensuing school year to fund the expenditures authorized by the budget amendment. The amount levied may not exceed the unfunded amount of the budget amendment.

History: En. Sec. 11, Ch. 6, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 15(4), Ch. 6, Sp. L. July 1992, provided that this section is effective on passage and approval. Approved July 24, 1992.

Part 2

Administration of Finances

20-9-212. Duties of county treasurer. The county treasurer of each county shall:

(1) receive and hold all school money subject to apportionment and keep a separate accounting of its apportionment to the several districts which are entitled to a portion of the money according to the apportionments ordered by the county superintendent. A separate accounting must be maintained for each county fund supported by a countywide levy for a specific, authorized purpose, including:

(a) the basic county tax in support of the elementary foundation programs;

(b) the basic special tax for high schools in support of the high school foundation programs;

(c) the county tax in support of the transportation schedules;

(d) the county tax in support of the elementary and high school district retirement obligations; and

(e) any other county tax for schools, including the community colleges, which may be authorized by law and levied by the county commissioners.

(2) whenever requested, notify the county superintendent and the superintendent of public instruction of the amount of county school money on deposit in each of the funds enumerated in subsection (1) of this section and the amount of any other school money subject to apportionment and apportion the county and other school money to the districts in accordance with the apportionment ordered by the county superintendent;

(3) keep a separate accounting of the expenditures for each budgeted fund included in the final budget of each district;

(4) keep a separate accounting of the receipts, expenditures, and cash balances for each budgeted fund included in the final budget of each district and for each nonbudgeted fund established by each district;

(5) except as otherwise limited by law, pay all warrants properly drawn on the county or district school money and properly endorsed by their holders;

(6) receive all revenue collected by and for each district and deposit these receipts in the fund designated by law or by the district if no fund is designated by law. Interest and penalties on delinquent school taxes shall be credited to the same fund and district for which the original taxes were levied.

(7) send all revenue received for a joint district, part of which is situated in his county, to the county treasurer designated as the custodian of the revenue, no later than December 15 of each year and every 3 months thereafter until the end of the school fiscal year;

(8) at the direction of the trustees of a district, assist the district in the issuance and sale of tax and revenue anticipation notes as provided in Title 7, chapter 6, part 11;

(9) register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when there is insufficient money available in all funds of the district to make payment of the warrant. Redemption of registered warrants must be made in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.

(10) invest the money of any district as directed by the trustees of the district within 3 working days of the direction;

(11) each month give to the trustees of each district an itemized report for each fund maintained by the district, showing the paid warrants, outstanding warrants, registered warrants, amounts and types of revenue received, and the cash balance;

(12) remit promptly to the state treasurer receipts for the county tax for a vocational-technical center when levied by the board of county commissioners under the provisions of 20-16-202;

(13) invest the money received from the basic county tax in support of the elementary foundation programs and the basic special tax in support of the high school foundation programs within 3 working days of receipt. The money must be invested until the working day before it is required to be distributed to school districts within the county or remitted to the state. Permissible investments are specified in 20-9-213(4). All investment income must be deposited, and credited proportionately, in the funds established to account for the taxes received for the purposes specified in subsections (1)(a) and (1)(b).

(14) remit on a monthly basis to the state treasurer, in accordance with the provisions of 15-1-504, all county equalization revenue received under the provisions of 20-9-331 and 20-9-333 for elementary and high school district foundation program support, including all interest earned and excluding any amount required for high school out-of-county tuition under the provisions of 20-9-334, in repayment of the state advance for county equalization prescribed in 20-9-347. Any funds in excess of a state advance must be used as required in 20-9-331(1)(b) and 20-9-333(1)(b).

History: En. 75-6805 by Sec. 241, Ch. 5, L. 1971; amd. Sec. 5, Ch. 241, L. 1973; amd. Sec. 3, Ch. 304, L. 1975; amd. Sec. 1, Ch. 180, L. 1977; amd. Sec. 1, Ch. 291, L. 1977; R.C.M.

1947, 75-6805; amd. Sec. 24, Ch. 392, L. 1979; amd. Sec. 5, Ch. 682, L. 1979; amd. Sec. 1, Ch. 234, L. 1983; amd. Sec. 1, Ch. 438, L. 1985; amd. Sec. 12, Ch. 481, L. 1985; amd. Sec. 34, Ch. 658, L. 1987; amd. Sec. 23, Ch. 11, Sp. L. June 1989; amd. Sec. 5, Ch. 711, L. 1991; amd. Sec. 3, Ch. 6, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 6, Sp. L. July 1992, inserted (14) concerning monthly remittance of county equalization revenue in repayment of a state advance for county equalization. Amendment effective July 24, 1992.

Retroactive Applicability: Section 15(2), Ch. 6, Sp. L. July 1992, provided that the amendments to this section apply retroactively to revenue collections under 20-9-331 and 20-9-333 for the school fiscal year beginning July 1, 1992.

1991 Amendment: At end of (1)(c) substituted "transportation schedules" for "county's high school transportation obligation". Amendment effective July 1, 1991.

Part 3

Equalization Aid

20-9-331. Basic county tax and other revenues for county equalization of the elementary district foundation program. (1) The county commissioners of each county shall levy an annual basic tax of 33 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the purposes of local and state foundation program support. The revenue collected from this levy must be apportioned to the support of the elementary foundation programs of the school districts in the county and to the state special revenue fund, state equalization aid account, in the following manner:

(a) In order to determine the amount of revenue raised by this levy which is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the total of the foundation programs of all elementary districts of the county.

(b) If the basic levy and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the state treasurer for deposit to the state special revenue fund, state equalization aid account, immediately upon occurrence of a surplus balance and each subsequent month thereafter, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The revenue realized from the county's portion of the levy prescribed by this section and the revenue from the following sources must be used for the equalization of the elementary foundation program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

(a) the portion of the federal Taylor Grazing Act funds distributed to a county and designated for the common school fund under the provisions of 17-3-222;

(b) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the provisions of 17-3-232;

(c) all money paid into the county treasury as a result of fines for violations of law, except money paid to a justice's court, and the use of which is not otherwise specified by law;

(d) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established or referred to in this section;

(e) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

(f) gross proceeds taxes from coal under 15-23-703;

(g) net proceeds taxes for new production, as defined in 15-23-601, and local government severance taxes on any other production occurring after December 31, 1988; and

(h) anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204.

History: En. 75-6912 by Sec. 262, Ch. 5, L. 1971; amd. Sec. 1, Ch. 355, L. 1973; R.C.M. 1947, 75-6912; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 2, Ch. 413, L. 1983; amd. Sec. 1, Ch. 418, L. 1983; amd. Sec. 2, Ch. 699, L. 1983; amd. Sec. 1, Ch. 50, L. 1985; amd. Sec. 2, Ch. 265, L. 1985; amd. Sec. 1, Ch. 552, L. 1985; amd. Sec. 13, Ch. 695, L. 1985; amd. Sec. 15, Ch. 557, L. 1987; amd. Sec. 16, Ch. 611, L. 1987; amd. Sec. 20, Ch. 655, L. 1987; amd. Secs. 35, 84, Ch. 11, Sp. L. June 1989; amd. Sec. 9, Ch. 267, L. 1991; amd. Sec. 4, Ch. 6, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 6, Sp. L. July 1992, in (1), in second sentence, substituted "elementary foundation programs of the school districts" for "foundation programs of the elementary school districts"; in (1)(b), after "levy", inserted "and other revenue" and after "required to" substituted "repay a state advance for county equalization" for "finance the difference determined in subsection (1)(a)"; deleted (1)(c) concerning increased state equalization aid to offset a deficiency in foundation program funding; in (2) substituted "elementary foundation program" for "elementary district foundation programs" and substituted "20-9-335" for "20-9-334"; and made minor changes in style. Amendment effective July 24, 1992.

Retroactive Applicability: Section 15(2), Ch. 6, Sp. L. July 1992, provided that the amendments to this section apply retroactively to revenue collections under 20-9-331 and 20-9-333 for the school fiscal year beginning July 1, 1992.

1991 Amendment: In (2)(g), before "new production", deleted "interim production and". Amendment effective March 29, 1991.

20-9-333. Basic special levy and other revenues for county equalization of high school district foundation program. (1) The county commissioners of each county shall levy an annual basic special tax for high schools of 22 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the purposes of local and state foundation program support. The revenue collected from this levy must be apportioned to the support of the foundation programs of high school districts in the county and to the state special revenue fund, state equalization aid account, in the following manner:

(a) In order to determine the amount of revenue raised by this levy which is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the sum of the county's high school

tuition obligation and the total of the foundation programs of all high school districts of the county.

(b) If the basic levy and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the state treasurer for deposit to the state special revenue fund, state equalization aid account, immediately upon occurrence of a surplus balance and each subsequent month thereafter, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The revenue realized from the county's portion of the levy prescribed in this section and the revenue from the following sources must be used for the equalization of the high school foundation program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

(a) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established in this section;

(b) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

(c) gross proceeds taxes from coal under 15-23-703;

(d) net proceeds taxes for new production, as defined in 15-23-601, and local government severance taxes on any other production occurring after December 31, 1988; and

(e) anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204.

History: En. 75-6913 by Sec. 263, Ch. 5, L. 1971; amd. Sec. 2, Ch. 355, L. 1973; R.C.M. 1947, 75-6913; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 2, Ch. 418, L. 1983; amd. Sec. 3, Ch. 699, L. 1983; amd. Sec. 2, Ch. 50, L. 1985; amd. Sec. 3, Ch. 265, L. 1985; amd. Sec. 3, Ch. 299, L. 1985; amd. Sec. 2, Ch. 552, L. 1985; amd. Sec. 14, Ch. 695, L. 1985; amd. Sec. 17, Ch. 611, L. 1987; amd. Sec. 21, Ch. 655, L. 1987; amd. Secs. 36, 85, Ch. 11, Sp. L. June 1989; amd. Sec. 10, Ch. 267, L. 1991; amd. Sec. 5, Ch. 6, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 6, Sp. L. July 1992, in (1)(b), after "levy", inserted "and other revenue" and after "required to" substituted "repay a state advance for county equalization" for "finance the difference determined in subsection (1)(a)"; deleted (1)(c) concerning increased state equalization aid to offset a deficiency in foundation program funding; in (2) substituted "high school foundation program" for "high school district foundation programs" and substituted "20-9-335" for "20-9-334"; and made minor changes in style. Amendment effective July 24, 1992.

Retroactive Applicability: Section 15(2), Ch. 6, Sp. L. July 1992, provided that the amendments to this section apply retroactively to revenue collections under 20-9-331 and 20-9-333 for the school fiscal year beginning July 1, 1992.

1991 Amendment: In (2)(d), before "new production", deleted "interim production and". Amendment effective March 29, 1991.

20-9-334. Apportionment of county equalization moneys — high school out-of-county tuition obligations. (1) The county superintendent shall calculate the apportionment of revenues deposited in the basic county tax account and the revenues deposited in the basic special tax for high schools account to the several districts of the county. The apportionments shall be known as "county equalization moneys".

(2) The county superintendent shall direct the county treasurer to deduct from the revenues available in the basic special tax for high schools account, prior to remittance of the funds to the state treasurer under the provisions of 15-1-504 and 20-9-212, the amount required for the month to pay the county's obligation for high school out-of-county tuition.

History: En. 75-6914 by Sec. 264, Ch. 5, L. 1971; amd. Sec. 19, Ch. 266, L. 1977; R.C.M. 1947, 75-6914; amd. Sec. 3, Ch. 552, L. 1985; amd. Sec. 6, Ch. 711, L. 1991; amd. Sec. 8, Ch. 765, L. 1991; amd. Sec. 6, Ch. 6, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 6, Sp. L. July 1992, in (1), near beginning, substituted "calculate the apportionment of" for "separately apportion the" and at end of first sentence deleted "on a monthly basis"; in (2), after "superintendent", deleted "makes the monthly apportionments", after "shall" inserted "direct the county treasurer to", and after "account" inserted "prior to the remittance of the funds to the state treasurer under the provisions of 15-1-504 and 20-9-212"; and made minor changes in style. Amendment effective July 24, 1992.

Retroactive Applicability: Section 15(2), Ch. 6, Sp. L. July 1992, provided that the amendments to this section apply retroactively to revenue collections under 20-9-331 and 20-9-333 for the school fiscal year beginning July 1, 1992.

1991 Amendments: Chapter 711 in third sentence, after "he shall", deleted (1) that read: "(1) deduct from the revenues available in the basic county tax account the amount required for the month to pay the county's obligation for elementary transportation reimbursements"; and made minor change in style. Amendment effective July 1, 1991.

Chapter 765 at end of (1), after "reimbursements", inserted "and out-of-state tuition obligations" (rendered void by Ch. 711). Amendment effective July 1, 1991.

20-9-335. Formula for apportionment of county equalization moneys. (1) The county superintendent shall calculate the apportionment of revenue available in the basic county tax account and in the basic special tax for high schools account in accordance with the following procedure:

(a) determine the percentage that the county equalization moneys available for the support of the elementary foundation program of the districts in the county is of the total elementary foundation program of all districts in the county;

(b) multiply the elementary foundation program amount of each district by the percentage determined in subsection (1)(a) above to determine the portion of the county equalization moneys available to each school district.

(2) The above procedure shall also be applied for the high school foundation program after the deduction of the county's obligation for high school out-of-county tuition.

(3) Territory situated within a county may not be excluded from the calculations of the county equalization moneys under this section solely because the territory lies within the boundaries of a joint district. Cash balances to the credit of any district at the end of a school fiscal year may not be considered in the apportionment procedure prescribed in this section.

(4) The county equalization moneys reported under these procedures are the first source of revenue for financing the elementary and high school foundation program payments.

History: En. 75-6915 by Sec. 265, Ch. 5, L. 1971; amd. Sec. 11, Ch. 137, L. 1973; amd. Sec. 1, Ch. 255, L. 1973; R.C.M. 1947, 75-6915; amd. Sec. 4, Ch. 413, L. 1983; amd. Sec. 4, Ch. 299, L. 1985; amd. Sec. 7, Ch. 6, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 6, Sp. L. July 1992, in (1), at beginning, deleted "After making such deductions prescribed in 20-9-334", after "shall" substituted "calculate the apportionment of

revenue" for "apportion the remaining amount of moneys", after "tax account" deleted "to the several public elementary districts of the county", and after "schools account" deleted "to the several public secondary districts of the county in proportion to their needs under the foundation program"; in (1)(a) substituted "elementary foundation program" for "programs of the public elementary districts" and after "total" substituted "elementary foundation program of all districts in the county" for "amount of the foundation programs of all public elementary districts"; in (1)(b), near beginning, substituted "elementary foundation program amount of each district" for "foundation program amount of each public elementary district" and at end substituted "school district" for "public elementary district"; in (2) substituted "the high school foundation program after the deduction of the county's obligation for high school out-of-county tuition" for "public secondary districts"; in (3) substituted "calculations" for "apportionment"; in (4) substituted "reported" for "apportioned", after "source of revenue" substituted "for financing the elementary and high school foundation program payments" for "in calculating the financing of the public elementary and secondary district foundation program" and deleted last sentence concerning use of apportionment procedure in computing estimated revenue for budgeting; and made minor changes in style. Amendment effective July 24, 1992.

Retroactive Applicability: Section 15(2), Ch. 6, Sp. L. July 1992, provided that the amendments to this section apply retroactively to revenue collections under 20-9-331 and 20-9-333 for the school fiscal year beginning July 1, 1992.

20-9-344. Purpose of state equalization aid and duties of board of public education for distribution. (1) The money available for state equalization aid must be distributed and apportioned to provide:

(a) an annual minimum operating revenue for the elementary and high schools in each county, exclusive of revenues required for debt service and for the payment of any costs and expense incurred in connection with any adult education program, recreation program, school food services program, new buildings and grounds, and transportation; and

(b) the Montana educational telecommunications network as provided in 20-32-101.

(2) The board of public education shall administer and distribute the state equalization aid and state advances for county equalization in the manner and with the powers and duties provided by law. To this end, the board of public education shall:

(a) adopt policies for regulating the distribution of state equalization aid and state advances for county equalization in accordance with the provisions of law;

(b) have the power to require reports from the county superintendents, budget boards, county treasurers, and trustees as it considers necessary; and

(c) order the superintendent of public instruction to distribute the state equalization aid on the basis of each district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the distribution of state equalization aid, the board of public education may not increase or decrease the state equalization aid distribution to any district on account of any difference that may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

(3) The board of public education may order the superintendent of public instruction to withhold distribution of state equalization aid or order the county superintendent of schools to withhold county equalization money from a district when the district fails to:

(a) submit reports or budgets as required by law or rules adopted by the board of public education; or

(b) maintain accredited status.

(4) Prior to any proposed order by the board of public education to withhold distribution of state equalization aid or county equalization money, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.

(5) If a district or county receives more state equalization aid than it is entitled to, the county treasurer shall return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the superintendent of public instruction.

(6) Except as provided in 20-9-347(3), the foundation program payment and guaranteed tax base aid payment must be distributed according to the following schedule:

(a) from August to May of the school fiscal year, 8% of the foundation program payment to each district;

(b) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each district or county;

(c) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment to each district or county; and

(d) in June of:

(i) the 1993 school fiscal year, one-half of the remaining foundation program payment of each district and on July 15, 1993, the remaining school fiscal year 1993 foundation program payment of each district; and

(ii) the school fiscal year, the remaining foundation program payment to each district.

(7) The distribution of foundation program payments and guaranteed tax base aid provided for in subsection (6) must occur by the last working day of each month.

History: En. 75-6917 by Sec. 267, Ch. 5, L. 1971; amd. Sec. 1, Ch. 166, L. 1973; amd. Sec. 2, Ch. 345, L. 1973; amd. Sec. 1, Ch. 346, L. 1973; amd. Sec. 1, Ch. 55, L. 1974; amd. Sec. 41, Ch. 213, L. 1975; R.C.M. 1947, 75-6917; amd. Sec. 7, Ch. 274, L. 1981; amd. Sec. 6, Ch. 317, L. 1981; amd. Secs. 1, 3, Ch. 236, L. 1983; amd. Sec. 1, Ch. 287, L. 1983; amd. Sec. 1, Ch. 18, Sp. L. June 1986; amd. Sec. 4, Ch. 1, Sp. L. June 1989; amd. Sec. 38, Ch. 11, Sp. L. June 1989; amd. Sec. 6, Ch. 622, L. 1991; amd. Sec. 28, Ch. 767, L. 1991; amd. Sec. 1, Ch. 1, Sp. L. July 1992; amd. Sec. 8, Ch. 6, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendments — Composite Section: Chapter 1, Sp. L. July 1992, in (6)(a) substituted "July 31" for "July 15". Amendment effective July 13, 1992, and terminates June 30, 1993.

Chapter 6, Sp. L. July 1992, in (2) and (2)(a), after "aid", inserted "and state advances for county equalization"; in (2)(a), after "law", deleted "and in a manner that provides for monthly distribution to each district of its foundation program amount and to each county and district distribution of its guaranteed tax base aid"; at beginning of (6) inserted exception clause and substituted schedule of guaranteed tax base aid payments for former distribution of 20% by July 15 and subsequent monthly payments of at least 7% of the entitlement; and inserted (7) concerning timing of payments. Amendment effective July 24, 1992.

The amendment made by Ch. 6, Sp. L. July 1992, provides for a schedule of foundation program and guaranteed tax base aid payments. The Code Commissioner has not codified the amendment made by Ch. 1, Sp. L. July 1992, because it became ineffective on July 24, 1992, the effective date of the amendment made by Ch. 6, Sp. L. July 1992.

Coordination Instruction: Section 14(2), Ch. 6, Sp. L. July 1992, provided that if Ch. 6, Sp. L. July 1992, was passed and approved, then Senate Bill No. 1 [this section] was void August 1, 1993. Because the amendment made by Senate Bill No. 1 terminates June 30, 1993, the provision in sec. 14(2), Ch. 6, Sp. L. July 1992, is ineffective.

Retroactive Applicability: Section 15(2), Ch. 6, Sp. L. July 1992, provided that the amendments to this section apply retroactively to revenue collections under 20-9-331 and 20-9-333 for the school fiscal year beginning July 1, 1992.

1991 Amendments: Chapter 622 inserted (1)(b) relating to Montana educational telecommunications network. Amendment effective April 24, 1991.

Chapter 767 at end of (5) substituted "superintendent of public instruction" for "department of commerce". Amendment effective May 15, 1991.

Retroactive Applicability: Section 59, Ch. 767, L. 1991, provided that this section applies retroactively, within the meaning of 1-2-109, to the school fiscal year beginning July 1, 1990.

20-9-346. Duties of the superintendent of public instruction for state equalization aid distribution. The superintendent of public instruction shall administer the distribution of the state equalization aid by:

(1) establishing the annual entitlement of each district and county to state equalization aid, based on the data reported in the retirement and general fund budgets for each district that have been duly adopted for the current school fiscal year and verified by the superintendent of public instruction and by applying the verified data under the provisions of the state equalization aid allocation procedure prescribed in 20-9-347;

(2) distributing by state warrant or electronic transfer the state equalization aid and state advances for county equalization, for each district or county entitled to the aid, to the county treasurer of the respective county or county where the district is located, in accordance with the distribution ordered by the board of public education;

(3) keeping a record of the full and complete data concerning money available for state equalization aid, state advances for county equalization, and the entitlements for state equalization aid of the districts of the state;

(4) reporting to the board of public education the estimated amount that will be available for state equalization aid; and

(5) reporting to the legislature as provided in 5-11-210:

(a) the figures and data available concerning distributions of state equalization aid during the preceding 2 school fiscal years;

(b) the amount of state equalization aid then available;

(c) the apportionment made of the available money but not yet distributed;

(d) the latest estimate of accruals of money available for state equalization aid; and

(e) the amount of state advances and repayment for county equalization.

History: En. 75-6918 by Sec. 268, Ch. 5, L. 1971; amd. Sec. 2, Ch. 166, L. 1973; R.C.M. 1947, 75-6918; amd. Sec. 39, Ch. 11, Sp. L. June 1989; amd. Sec. 26, Ch. 112, L. 1991; amd. Sec. 9, Ch. 6, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 6, Sp. L. July 1992, deleted (2) providing for recommending to Board of Public Education the entitlement of districts and counties to state equalization aid; in (2) and (3), after "aid", inserted "state advances for county equalization"; inserted (5)(e) concerning state advances and repayment for county equalization; and made minor changes in style. Amendment effective July 24, 1992.

Retroactive Applicability: Section 15(2), Ch. 6, Sp. L. July 1992, provided that the amendments to this section apply retroactively to revenue collections under 20-9-331 and 20-9-333 for the school fiscal year beginning July 1, 1992.

1991 Amendment: In (6) substituted introductory language regarding reports required under 5-11-210 for former language that read: "reporting to both houses of the state legisla-

ture in any year when a session is convened".
Amendment effective March 20, 1991.

20-9-347. Formula for state equalization aid apportionment in support of foundation program — exceptions. (1) The superintendent of public instruction shall apportion the state equalization aid available for support of the foundation program, individually for the elementary districts of a county or the high school districts of a county, in accordance with 20-9-346 and on the basis of the following procedure:

(a) Determine the percentage that the total funds available to all counties in the state in support of the foundation program (including the state money available for state equalization aid in support of the foundation program) is of the total amount of the foundation programs of all counties.

(b) Determine the percentage that the total funds available in each county in support of the foundation programs in the county (excluding state money available for state equalization aid in support of the foundation program) is of the total amount of the foundation programs of all districts of the county.

(c) Counties in which the percentage determined in subsection (1)(b) exceeds the percentage determined in subsection (1)(a) are not entitled to an apportionment of the state equalization aid in support of the foundation program.

(d) After elimination of the counties referred to in subsection (1)(c), determine the percentage that the total money available to all remaining counties in support of the foundation program (including the state money available for state equalization aid in support of the foundation program) is of the total amount of the foundation programs of all remaining counties.

(e) Each district of each remaining county is entitled to an apportionment of the state equalization aid in support of the foundation program equal to the difference between the percentage determined in subsection (1)(d) and the percentage determined for the county in subsection (1)(b) multiplied by the foundation program amount for the district.

(2) The superintendent of public instruction shall:

(a) supply the county treasurer and the county superintendent with a report of the apportionments of state equalization aid in support of the foundation program of each district of the county, and the state equalization aid in support of the foundation program must be apportioned to the districts in accordance with the report;

(b) in the manner described in 20-9-344, provide for a state advance to each county in an amount that is no less than the amount anticipated to be raised for the basic county tax fund as provided in 20-9-331 and for the basic special tax fund as provided in 20-9-333;

(c) adopt rules to implement the provisions of subsection (2)(b).

(3) (a) The superintendent of public instruction is authorized to adjust the schedule prescribed in 20-9-344 for distribution of the foundation program and guaranteed tax base aid payments if the distribution will cause a district to register warrants under the provisions of 20-9-212(9).

(b) To qualify for an adjustment in the payment schedule, a district shall demonstrate to the superintendent of public instruction, in the manner required by the office, that the payment schedule prescribed in 20-9-344 will

result in insufficient money available in all funds of the district to make payment of the district's warrants. The county treasurer shall confirm the anticipated deficit. Nothing in this section may be construed to authorize the superintendent of public instruction to exceed a district's annual payment for state and county equalization aid.

History: En. 75-6919 by Sec. 269, Ch. 5, L. 1971; R.C.M. 1947, 75-6919; amd. Sec. 40, Ch. 11, Sp. L. June 1989; amd. Sec. 10, Ch. 6, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 6, Sp. L. July 1992, inserted (2)(b) concerning state advance of basic county tax and basic special tax; inserted (2)(c) concerning adoption of rules; and inserted (3) concerning adjustment to schedule prescribed in 20-9-344. Amendment effective July 24, 1992.

Retroactive Applicability: Section 15(2), Ch. 6, Sp. L. July 1992, provided that the amendments to this section apply retroactively to revenue collections under 20-9-331 and 20-9-333 for the school fiscal year beginning July 1, 1992.

20-9-351. Funding of deficiency in state equalization aid. If the money available for state equalization aid is not the result of a reduction in spending under 17-7-140 and is not sufficient to provide the foundation program schedule support determined in 20-9-348 and the guaranteed tax base aid required under 20-9-366 through 20-9-369, the superintendent of public instruction shall request the budget director to submit a request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the funding of guaranteed tax base aid and the foundation programs of the elementary or secondary schools, or both, for the current biennium.

History: En. 75-6921 by Sec. 271, Ch. 5, L. 1971; amd. Sec. 4, Ch. 355, L. 1973; R.C.M. 1947, 75-6921; amd. Sec. 3, Ch. 317, L. 1981; amd. Sec. 2, Ch. 540, L. 1981; amd. Sec. 4, Ch. 15, L. 1985; amd. Sec. 6, Ch. 299, L. 1985; amd. Sec. 41, Ch. 11, Sp. L. June 1989; amd. Sec. 3, Ch. 5, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 5, Sp. L. July 1992, near beginning, after "aid", inserted "is not the result of a reduction in spending under 17-7-140 and". Amendment effective July 24, 1992.

CHAPTER 10

TRANSPORTATION AND FOOD SERVICES

Part 1

School Buses and Transportation

20-10-144. Computation of revenues and net tax levy requirements for district transportation fund budget. Before the fourth Monday of July and in accordance with 20-9-123, the county superintendent shall compute the revenue available to finance the transportation fund budget of

each district. The county superintendent shall compute the revenue for each district on the following basis:

(1) The "schedule amount" of the preliminary budget expenditures that is derived from the rate schedules in 20-10-141 and 20-10-142 must be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate per bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by such district); plus

(b) the total of all individual transportation per diem reimbursement rates for the district as determined from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the ensuing school attendance year; plus

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted on the preliminary budget for the contingency amount permitted in 20-10-143, except if the amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or $100, whichever is larger, the contingency amount on the preliminary budget must be reduced to the limitation amount and used in this determination of the schedule amount.

(2) (a) The schedule amount determined in subsection (1) or the total preliminary transportation fund budget, whichever is smaller, is divided by 2 and is used to determine the available state and county revenue to be budgeted on the following basis:

(i) one-half is the budgeted state transportation reimbursement, except that the state transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 must be 50% of the schedule amount attributed to the transportation of special education pupils; and

(ii) one-half is the budgeted county transportation fund reimbursement and must be financed in the manner provided in 20-10-146.

(b) When the district has a sufficient amount of cash for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any remaining amount of district revenue and cash reappropriated must be used to reduce the county financing obligation in subsection (2)(a)(ii) and, if the county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (2)(a)(i).

(c) The county revenue requirement for a joint district, after the application of any district money under subsection (2)(b), must be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each county.

(3) The total of the money available for the reduction of property tax on the district for the transportation fund must be determined by totaling:

(a) anticipated federal money received under the provisions of Title I of Public Law 81-874 or other anticipated federal money received in lieu of that federal act;

(b) anticipated payments from other districts for providing school bus transportation services for the district;

(c) anticipated payments from a parent or guardian for providing school bus transportation services for his child;

(d) anticipated or reappropriated interest to be earned by the investment of transportation fund cash in accordance with the provisions of 20-9-213(4);

(e) anticipated or reappropriated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(f) anticipated revenue from coal gross proceeds under 15-23-703;

(g) anticipated net proceeds taxes for new production, as defined in 15-23-601, and local government severance taxes on any other production occurring after December 31, 1988;

(h) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year that may be used to finance the transportation fund; and

(i) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the transportation fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating reserve may not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

(4) The district levy requirement for each district's transportation fund must be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount; and

(b) subtracting the amount of money available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection (4)(a).

(5) The transportation fund levy requirements determined in subsection (4) for each district must be reported to the county commissioners on the second Monday of August by the county superintendent as the transportation fund levy requirements for the district, and the levy must be made by the county commissioners in accordance with 20-9-142.

History: En. 75-7021 by Sec. 298, Ch. 5, L. 1971; R.C.M. 1947, 75-7021; amd. Sec. 6, Ch. 699, L. 1983; amd. Sec. 17, Ch. 695, L. 1985; amd. Sec. 20, Ch. 611, L. 1987; amd. Sec. 24, Ch. 655, L. 1987; amd. Sec. 7, Ch. 35, L. 1989; amd. Sec. 87, Ch. 11, Sp. L. June 1989; amd. Sec. 11, Ch. 267, L. 1991; amd. Sec. 13, Ch. 711, L. 1991; amd. Sec. 45, Ch. 767, L. 1991; amd. Sec. 2, Ch. 9, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 9, Sp. L. July 1992, in (2)(a)(i) reduced from 100% to 50% the amount of transportation reimbursement attributed to transportation of special education pupils. Amendment effective August 6, 1992.

1991 Amendments: Chapter 267 in (3)(g), before "new production", deleted "interim production and". Amendment effective March 29, 1991.

Chapter 711 in (2)(a) increased state transportation reimbursement by substituting "divided by 2" for "divided by 3" and deleted "the resulting one-third amount"; in (2)(a)(i) substituted "one-half" for "the resulting one-third amount" and after "must be" substituted "100%" for "two-thirds"; in (2)(a)(ii) substituted "one-half is the budgeted county

transportation fund reimbursement and must be financed in the manner provided in 20-10-146" for former (2)(b) and (2)(c) that read: "(b) the resulting one-third amount, except as provided for joint elementary districts in subsection (2)(e), is the budgeted county transportation reimbursement for elementary districts and must be financed by the basic county tax under the provisions of 20-9-334;

(c) the resulting one-third amount multiplied by 2 is the budgeted county transportation reimbursement amount for high school districts financed under the provisions of subsection (5), except as provided for joint high school districts in subsection (2)(e), and except that the county transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 must be one-third of the schedule amount attributed to the transportation of special education pupils"; in (2)(b) substituted "(2)(a)(ii)" for "(2)(b) or (2)(c)" and at end inserted reference to subsection (i) of subsection (2)(a); in (2)(c) changed subsection reference; in (3)(f) substituted "anticipated revenue from coal gross proceeds" for "gross proceeds taxes from coal"; at beginning of (3)(g) inserted "anticipated"; in (3)(i), in three places, substituted reference to fund balance for reference to cash and in two places substituted "operating reserve" for "cash reserve"; in (4)(a), at end, deleted "and, for an elementary district, adding the difference to the district obligation to finance one-third of the schedule amount as determined in subsection (2)"; deleted former (5) that read: "(5) The county levy requirement for the financing of the county transportation reimbursement to high school districts is computed by adding all requirements for all the high school districts of the county, including the county's obligation for reimbursements in joint high school districts"; in (5), after "each district", deleted "and in subsection (5) for the county" and after "the district" deleted "and for the county"; and made minor changes in style. Amendment effective July 1, 1991.

Chapter 767 in (3)(i), in three places, substituted reference to fund balance for reference to cash and in two places substituted "operating reserve" for "cash reserve"; and made minor changes in style. Amendment effective May 15, 1991.

Retroactive Applicability: Section 59, Ch. 767, L. 1991, provided that this section applies retroactively, within the meaning of 1-2-109, to the school fiscal year beginning July 1, 1990.

CHAPTER 15

COMMUNITY COLLEGE DISTRICTS

Part 4

Relationship to Other Laws

20-15-403. Applications of other school district provisions. (1) When the term "school district" appears in the following sections outside of Title 20, the term includes community college districts and the provisions of those sections applicable to school districts apply to community college districts: 2-9-101, 2-9-111, 2-9-316, 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604, 7-6-2801, 7-7-123, 7-8-2214, 7-8-2216, 7-11-103, 7-12-4106, 7-13-110, 7-13-210, 7-15-4206, 10-1-703, 15-1-101, 15-6-204, 15-16-101, 15-16-601, 15-70-301, 15-70-322, 17-5-101, 17-5-202, 17-6-103, 17-6-204, 17-6-213, 17-7-201, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18-2-404, 18-2-432, 18-5-205, 19-1-102, 19-1-811, 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-3-104, 39-4-107, 39-31-103, 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 39-71-2206, 40-6-237, 41-3-1132, 49-3-101,

49-3-102, 53-20-304, 77-3-321, 82-10-201, 82-10-202, 82-10-203, 85-7-2158, and 90-6-208 and Rules 4D(2)(g) and 15(c), M.R.Civ.P., as amended.

(2) When the term "school district" appears in a section outside of Title 20 but the section is not listed in subsection (1), the school district provision does not apply to a community college district.

History: En. Sec. 12, Ch. 392, L. 1979; amd. Sec. 6, Ch. 495, L. 1981; amd. Sec. 2, Ch. 570, L. 1981; amd. Sec. 76, Ch. 575, L. 1981; amd. Sec. 27, Ch. 465, L. 1983; amd. Sec. 6, Ch. 15, L. 1985; amd. Sec. 72, Ch. 370, L. 1987; amd. Sec. 5, Ch. 512, L. 1987; amd. Sec. 58, Ch. 587, L. 1987; amd. Sec. 14, Ch. 10, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 10, Sp. L. July 1992, in (1) deleted reference to 15-55-106. Amendment effective August 6, 1992.

TITLE 23

PARKS, RECREATION, SPORTS, AND GAMBLING

CHAPTER 5

GAMBLING

Part 6

Video Gaming Machine Control Law

23-5-610. *(Temporary)* **Video gambling machine gross income tax — records — distribution — quarterly statement and payment.** (1) A licensed operator issued a permit under this part shall pay to the department a video gambling machine tax of 15% of the gross income from each video gambling machine licensed under this part. A licensed operator may deduct from the gross income amounts equal to amounts stolen from machines if the amounts are not repaid by insurance and if a law enforcement agency investigated the theft.

(2) A licensed operator issued a permit under this part shall keep a record of the gross income from each machine in such form as the department may require. The records must at all times during the business hours of the licensee be subject to inspection by the department.

(3) A licensed operator issued a permit under this part shall, within 15 days after the end of each quarter, complete and deliver to the department a statement showing the total gross income from each video gambling machine licensed to him, together with the total amount due the state as video

gambling machine gross income tax for the preceding quarter. The statement must contain other relevant information as the department may require.

(4) (a) The department shall forward one-third of the tax collected under subsection (3) and the surtax imposed by 23-5-646 to the general fund.

(b) The department shall forward the remaining two-thirds of the tax collected under subsection (3) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the county or municipal treasury. Counties are not entitled to proceeds from taxes on income from video gambling machines located in incorporated cities and towns. The two-thirds local government portion of tax collected under subsection (3) is statutorily appropriated to the department as provided in 17-7-502 for deposit to the county or municipal treasury.

23-5-610. *(Effective on receipt of taxes for calendar quarter ending June 30, 1993)* **Video gambling machine gross income tax — records — distribution — quarterly statement and payment.** (1) A licensed operator issued a permit under this part shall pay to the department a video gambling machine tax of 15% of the gross income from each video gambling machine licensed under this part. A licensed operator may deduct from the gross income amounts equal to amounts stolen from machines if the amounts are not repaid by insurance and if a law enforcement agency investigated the theft.

(2) A licensed operator issued a permit under this part shall keep a record of the gross income from each machine in such form as the department may require. The records must at all times during the business hours of the licensee be subject to inspection by the department.

(3) A licensed operator issued a permit under this part shall, within 15 days after the end of each quarter, complete and deliver to the department a statement showing the total gross income from each video gambling machine licensed to him, together with the total amount due the state as video gambling machine gross income tax for the preceding quarter. The statement must contain other relevant information as the department may require.

(4) (a) The department shall forward one-third of the tax collected under subsection (3) to the general fund.

(b) The department shall forward the remaining two-thirds of the tax collected under subsection (3) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the county or municipal treasury. Counties are not entitled to proceeds from taxes on income from video gambling machines located in incorporated cities and towns. The two-thirds local government portion of tax collected under subsection (3) is statutorily appropriated to the department as provided in 17-7-502 for deposit to the county or municipal treasury.

History: En. Sec. 9, Ch. 603, L. 1987; amd. Sec. 52, Ch. 642, L. 1989; amd. Sec. 47, Ch. 647, L. 1991; amd. Sec. 29, Ch. 15, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 15, Sp. L. July 1992, at end of (4)(a) inserted reference to surtax imposed by 23-5-646.

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the

Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Retroactive Applicability — Termination: Section 39(4), Ch. 15, Sp. L. July 1992, provided that this section applies to tax liabilities for calendar quarters beginning after June 30, 1992, and before July 1, 1993. This section terminates upon receipt of taxes for the quarter ending June 30, 1993.

1991 Amendment: Throughout section substituted reference to gross income for reference to net income and inserted "licensed" before "operator"; inserted second sentence of (1) concerning amounts stolen from machines; in (2), near middle of first sentence after "income", inserted "from each machine"; and made minor changes in style. Amendment effective July 1, 1991.

23-5-646. *(Temporary)* **Surtax — distribution.** (1) In addition to the amount of tax liability determined under 23-5-610, each licensed operator subject to taxation under this part shall pay, as a surtax, 7% of the tax liability.

(2) The surtax imposed by this section must be deposited to the credit of the state general fund.

History: En. Sec. 28, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Retroactive Applicability — Termination: Section 39(4), Ch. 15, Sp. L. July 1992, provided that this section applies to tax liabilities for calendar quarters beginning after June 30, 1992, and before July 1, 1993. This section terminates upon receipt of taxes for the quarter ending June 30, 1993.

TITLE 33

INSURANCE AND INSURANCE COMPANIES

CHAPTER 2

REGULATION OF INSURANCE COMPANIES

Part 7

Reports, Fees, and Taxes

33-2-705. *(Temporary)* **Report on premiums and other consideration — tax.** (1) Each authorized insurer and each formerly authorized insurer with respect to premiums so received while an authorized insurer in this state shall file with the commissioner, on or before March 1 each year, a report in form as prescribed by the commissioner showing total direct premium income, including policy, membership, and other fees, premiums paid by application of dividends, refunds, savings, savings coupons, and similar returns or credits to payment of premiums for new or additional or extended or renewed insurance, charges for payment of premium in installments, and all other

consideration for insurance from all kinds and classes of insurance, whether designated as a premium or otherwise, received by a life insurer or written by an insurer other than a life insurer during the preceding calendar year on account of policies covering property, subjects, or risks located, resident, or to be performed in Montana, with proper proportionate allocation of premium as to such property, subjects, or risks in Montana insured under policies or contracts covering property, subjects, or risks located or resident in more than one state, after deducting from such total direct premium income applicable cancellations, returned premiums, the unabsorbed portion of any deposit premium, the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer, all policy dividends, refunds, savings, savings coupons, and other similar returns paid or credited to policyholders with respect to such policies. As to title insurance, "premium" includes the total charge for such insurance. No deduction shall be made of the cash surrender values of policies. Considerations received on annuity contracts shall not be included in total direct premium income and shall not be subject to tax.

(2) Coincident with the filing of the tax report referred to in subsection (1) above, each such insurer shall pay to the commissioner a tax upon such net premiums computed at the rate of 2 ¾%.

(3) That portion of the tax paid hereunder by an insurer on account of premiums received for fire insurance shall be separately specified in the report as required by the commissioner, for apportionment as provided by law. Where insurance against fire is included with insurance of property against other perils at an undivided premium, the insurer shall make such reasonable allocation from such entire premium to the fire portion of the coverage as shall be stated in such report and as may be approved or accepted by the commissioner.

(4) With respect to authorized insurers, the taxes provided by this part shall be payment in full and in lieu of all other demands for any and all state, county, city, district, municipal, and school taxes, licenses, fees, and excises of whatever kind or character, excepting only those prescribed by this code, taxes on real and tangible personal property located in this state, and taxes payable under 50-3-109.

(5) The commissioner may suspend or revoke the certificate of authority of any insurer which fails to pay its taxes as required under this section.

(6) In addition to the penalty provided for in subsection (5), the commissioner may impose upon an insurer who fails to pay the tax required under this section a fine of $100 a day for each day the tax remains unpaid past the due date or 1% of the amount owed in tax, whichever is greater.

(7) The commissioner may by rule provide a quarterly schedule for payment of portions of the premium tax under this section during the year in which such tax liability is accrued.

33-2-705. *(Effective January 1, 1993)* **Report on premiums and other consideration — tax.** (1) Each authorized insurer and each formerly authorized insurer with respect to premiums so received while an authorized insurer in this state shall file with the commissioner, on or before March 1 each year, a report in form as prescribed by the commissioner showing total

direct premium income, including policy, membership, and other fees, premiums paid by application of dividends, refunds, savings, savings coupons, and similar returns or credits to payment of premiums for new or additional or extended or renewed insurance, charges for payment of premium in installments, and all other consideration for insurance from all kinds and classes of insurance, whether designated as a premium or otherwise, received by a life insurer or written by an insurer other than a life insurer during the preceding calendar year on account of policies covering property, subjects, or risks located, resident, or to be performed in Montana, with proper proportionate allocation of premium as to such property, subjects, or risks in Montana insured under policies or contracts covering property, subjects, or risks located or resident in more than one state, after deducting from such total direct premium income applicable cancellations, returned premiums, the unabsorbed portion of any deposit premium, the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer, all policy dividends, refunds, savings, savings coupons, and other similar returns paid or credited to policyholders with respect to such policies. As to title insurance, "premium" includes the total charge for such insurance. No deduction shall be made of the cash surrender values of policies. Considerations received on annuity contracts shall not be included in total direct premium income and shall not be subject to tax.

(2) Coincident with the filing of the tax report referred to in subsection (1) above, each such insurer shall pay to the commissioner a tax upon such net premiums computed at the rate of 2 ¾%.

(3) That portion of the tax paid hereunder by an insurer on account of premiums received for fire insurance shall be separately specified in the report as required by the commissioner, for apportionment as provided by law. Where insurance against fire is included with insurance of property against other perils at an undivided premium, the insurer shall make such reasonable allocation from such entire premium to the fire portion of the coverage as shall be stated in such report and as may be approved or accepted by the commissioner.

(4) With respect to authorized insurers the premium tax provided by this section shall be payment in full and in lieu of all other demands for any and all state, county, city, district, municipal, and school taxes, licenses, fees, and excises of whatever kind or character, excepting only those prescribed by this code, taxes on real and tangible personal property located in this state, and taxes payable under 50-3-109.

(5) The commissioner may suspend or revoke the certificate of authority of any insurer which fails to pay its taxes as required under this section.

(6) In addition to the penalty provided for in subsection (5), the commissioner may impose upon an insurer who fails to pay the tax required under this section a fine of $100 a day for each day the tax remains unpaid past the due date or 1% of the amount owed in tax, whichever is greater.

(7) The commissioner may by rule provide a quarterly schedule for payment of portions of the premium tax under this section during the year in which such tax liability is accrued.

History: En. Sec. 66, Ch. 286, L. 1959; amd. Sec. 1, Ch. 160, L. 1961; amd. Sec. 1, Ch. 78, L. 1963; amd. Sec. 1, Ch. 26, L. 1965; amd. Sec. 1, Ch. 71, L. 1967; amd. Sec. 1, Ch. 358, L. 1969; amd. Sec. 1, Ch. 237, L. 1971; R.C.M. 1947, 40-2821(part); amd. Sec. 1, Ch. 664, L. 1979; amd. Sec. 7, Ch. 303, L. 1981; amd. Sec. 12, Ch. 467, L. 1981; amd. Sec. 1, Ch. 295, L. 1983; amd. Sec. 3, Ch. 518, L. 1983; amd. Sec. 3, Ch. 622, L. 1987; amd. Sec. 2, Ch. 798, L. 1991; amd. Sec. 30, Ch. 15, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 15, Sp. L. July 1992, near beginning of (4) substituted "taxes provided by this part" for "the premium tax provided by this section".

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Retroactive Applicability — Termination: Section 39(9), Ch. 15, Sp. L. July 1992, provided that this section applies to the tax year beginning after December 31, 1991. This section terminates upon receipt of taxes for the calendar year ending December 31, 1992.

1991 Amendment: In (1), in middle of first sentence after "received by", substituted "a life insurer or written by an insurer other than a life insurer" for "it".

33-2-736. *(Temporary)* **Surtax — distribution.** (1) In addition to the amount of tax liability determined under 33-2-311, 33-2-705, 33-2-710, or 33-22-1205, each insurer subject to taxation under 33-2-311, 33-2-705, 33-2-710, or 33-22-1205 shall pay, as a surtax, 7% of the tax liability.

(2) The surtax imposed by this section must be deposited to the credit of the state general fund.

History: En. Sec. 31, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Retroactive Applicability — Termination: Section 39(9), Ch. 15, Sp. L. July 1992, provided that this section applies to the tax year beginning after December 31, 1991. This section terminates upon receipt of taxes for the calendar year ending December 31, 1992.

TITLE 50

HEALTH AND SAFETY

CHAPTER 60

BUILDING CONSTRUCTION STANDARDS

Part 5

Plumbing Installations

50-60-508. *(Temporary)* **Permit fees.** (1) The department of commerce shall establish permit fees in accordance with the Montana Administrative Procedure Act, and except as provided in subsection (3), the fees shall be deposited to the state special revenue fund of the department for use in the administration and enforcement of this part and the Montana state plumbing code.

(2) For the purpose of 50-60-505 through 50-60-513, a sanitary plumbing outlet on or to which a plumbing fixture or appliance may be set or attached shall be construed to be a fixture. Fees for reconnection and retest of plumbing systems in relocated buildings shall be based on the number of plumbing fixtures, gas systems, water heaters, and the like involved.

(3) On or before September 1, 1992, the department shall transfer $400,000 from the building codes state special revenue account to the general fund. *(Terminates September 2, 1992—sec. 8(2), Ch. 11, Sp. L. July 1992.)*

50-60-508. *(Effective September 2, 1992)* **Permit fees.** (1) The department of commerce shall establish permit fees in accordance with the Montana Administrative Procedure Act and the fees shall be deposited to the state special revenue fund of the department for use in the administration and enforcement of this part and the Montana state plumbing code.

(2) For the purpose of 50-60-505 through 50-60-513, a sanitary plumbing outlet on or to which a plumbing fixture or appliance may be set or attached shall be construed to be a fixture. Fees for reconnection and retest of plumbing systems in relocated buildings shall be based on the number of plumbing fixtures, gas systems, water heaters, and the like involved.

History: En. Sec. 1, Ch. 236, L. 1967; amd. Sec. 240, Ch. 350, L. 1974; amd. Sec. 1, Ch. 446, L. 1975; amd. Sec. 1, Ch. 226, L. 1977; amd. Sec. 7, Ch. 504, L. 1977; R.C.M. 1947, 66-2427(part); amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 8, Ch. 352, L. 1985; amd. Sec. 3, Ch. 11, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 11, Sp. L. July 1992, in (1), near beginning, inserted exception clause; and inserted (3) transferring $400,000 from the building codes state special revenue account to the general fund. Amendment effective August 6, 1992, and terminates September 2, 1992.

TITLE 53

SOCIAL SERVICES AND INSTITUTIONS

CHAPTER 3

GENERAL RELIEF

Part 1

General Provisions

53-3-109. Definitions. For the purposes of this chapter, the following definitions apply:

(1) "Acute medical need" means an illness, injury, or other serious medical condition that:

(a) demands urgent medical attention; and

(b) is expected to last less than 12 months if treated.

(2) "Basic necessities" means food, shelter, utilities, and personal needs.

(3) "Children" means minor and adult children who reside in the same household with their parents. The term includes both adoptive and natural children.

(4) "Chronic illness" or "chronically ill" means the condition of a person who is diagnosed as having an illness, injury, or physical or mental impairment that:

(a) is expected to last for a continuous period of at least 12 months; and

(b) would be considered a disability under 42 U.S.C. 1382(c) if evaluated under criteria used to determine eligibility for the federal supplemental security income program.

(5) "Department" means the department of social and rehabilitation services provided for in Title 2, chapter 15, part 22.

(6) "Employable" means the condition of a person who is not unemployable, as determined by a vocational specialist. A person who is employable is transitionally needy and is not eligible for general relief except as provided in 53-3-215.

(7) "General relief" means a program of assistance for basic necessities and medical needs for those persons determined to be eligible for such assistance.

(8) "Household" means:

(a) a collective body of persons consisting of spouses or parents and their children who reside together in the same residence; or

(b) all other persons who by choice or necessity are mutually dependent upon each other for basic necessities and who reside in the same residence.

(9) "Income" means the value of all property of any nature, earned, unearned, or in-kind, including benefits, that is reasonably certain to be received or is actually received during the month by members of a household.

(10) "Lump-sum income" means a nonrecurring source of income received in a single payment by a household during any eligibility period, including but not limited to proceeds from a lawsuit, insurance settlement, inheritance, lump-sum retirement, veterans' or unemployment benefits; benefits received under the federal Social Security Act; prizes; and tax refunds.

(11) "New to Montana" means a person who has been a Montana resident for 1 month or less at the time of application.

(12) "Presumptive income" means the amount of financial assistance that a person would have received under the aid to families with dependent children program, as provided for in Title 53, chapter 4, part 2, if the person had not been determined ineligible due to receipt of lump-sum income, overpayment, fraud, or failure or refusal to comply with requirements for continued participation in the program.

(13) "Resource" means all real and personal property retained after the calendar month of its receipt and which the household or a member of the household has a legal right to sell or liquidate.

(14) "Secure facility" means any facility in which a person may be lawfully held against his will by federal, state, or local authorities.

(15) "Self-sufficiency program" means a program designed to enable temporarily unemployable persons to achieve self-sufficiency and includes any combination of a self-sufficiency plan, concentrated rehabilitation activities, or support services.

(16) "Serious barrier to employment" means a limitation in obtaining employment, as determined by a vocational specialist, that results from:

(a) a lack of work skills, experience, or training necessary to secure employment;

(b) the failure to attain a high school education or its equivalent; or

(c) illiteracy.

(17) "Serious medical condition" means a mental or physical condition that causes a serious health risk to a person and for which treatment is medically necessary. Diagnosis and determination of necessary treatment must be made by a licensed medical practitioner, and the department may confirm the diagnosis through an expert medical review. Necessary treatment includes essential medical care and other services that the department determines, by rule, to be medically necessary. A serious medical condition is limited to chronic illness, an acute medical need, or a medical condition that requires services in order for a person to obtain or retain employment.

(18) "Temporarily unemployable" means the condition of a person who suffers from a temporary illness, injury, or incapacity that is medically certifiable and that prevents the person from becoming immediately employable in any substantial, gainful employment, as determined by a vocational specialist, and who:

(a) is at least 55 years of age and who has a limited ability because of advanced age to obtain or retain suitable employment, as determined by a vocational specialist; or

(b) would not be considered disabled under 42 U.S.C. 1382(c) if evaluated under criteria used to determine eligibility for the federal supplemental security income program.

(19) (a) "Unemployable" means the condition of a person who:

(i) has a serious physical, emotional, or mental handicap that is medically certified and that prevents him from being employed in any substantial, gainful employment, as determined by a vocational specialist; or

(ii) suffers from a permanent illness, injury, or incapacity that is medically certified and that prevents the person from working in any substantial, gainful employment, as determined by a vocational specialist.

(b) A person who is unemployable is chronically needy and must be provided general relief as provided in 53-3-215.

(20) "Vocational specialist" means an employment counselor or other experienced personnel who are qualified to evaluate a recipient's ability to work in substantial, gainful employment.

History: En. Sec. 2, Ch. 670, L. 1985; amd. Sec. 2, Ch. 10, Sp. L. June 1986; amd. Sec. 3, Ch. 451, L. 1989; amd. Sec. 3, Ch. 580, L. 1989; amd. Sec. 1, Ch. 442, L. 1991; amd. Sec. 1, Ch. 578, L. 1991; amd. Sec. 1, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, in definition of employable, after "general relief", deleted "for basic necessities"; in definition of general relief, after ""General relief"", deleted "or "general relief assistance"" and before "assistance" deleted "public"; inserted definitions of new to Montana, self-sufficiency program, and temporarily unemployable; and in definition of unemployable deleted former (i) referring to the conditions of a person who is "at least 55 years of age and has a limited ability to obtain or retain suitable employment because of advanced age, as determined by a vocational specialist" and in (ii), after "a permanent", deleted "or temporary".

1991 Amendments: Chapter 442 inserted definitions of acute medical need and chronic illness; and in definition of serious medical condition, near beginning of first sentence after "physical condition", deleted "including pregnancy", near beginning of third sentence, after "includes", substituted "essential medical care and other services that the department determines, by rule" for "prenatal care and such other elective treatments as determined by department rule", and inserted fourth sentence concerning limits on condition constituting a serious medical condition. Amendment effective July 1, 1991.

Chapter 578 in definitions of employable, serious barrier to employment, and unemployable, in three places, inserted "as determined by a vocational specialist"; in definition of unemployable, in (a)(ii) and (a)(iii), inserted "that is medically certified and"; and inserted definition of vocational specialist. Amendment effective July 1, 1991.

53-3-121. Legislative findings. The legislature finds that:

(1) Article XII, section 3, of the Montana constitution grants the legislature authority to determine the public policy governing the provision of public assistance;

(2) public policy requires that certain persons who are in need should be provided with assistance through programs of general relief;

(3) general relief, along with other assistance programs, should be available to provide:

(a) basic necessities that allow minimum subsistence compatible with decency and health; and

(b) financial assistance for medical services necessary for the treatment of a person's serious medical condition. However, general relief medical

assistance should not be available to nonindigent persons who have catastrophic medical expenses.

(4) general relief should not be available to those persons who have adequate income or resources to support themselves, nor should general relief be provided in duplication of services and benefits available through other federal or state assistance programs;

(5) the legislature, in order to allocate scarce welfare resources to those most in need, may establish a reasonable classification that distinguishes between persons who are chronically in need of assistance and persons who are transitionally needy; and

(6) as the basis for the classification of recipients, it is reasonable to conclude that:

(a) some persons are in need of assistance because their physical, emotional, or mental condition renders them incapable of substantial, gainful employment. Such persons are chronically needy and should be entitled to general relief for the duration of their need.

(b) some persons are in need of assistance because they are unemployed, lack the skills, training, or experience to become employed, or suffer from a temporary disability. Such persons should be considered transitionally needy and should be provided only temporary, interim assistance and state help in obtaining gainful employment. In addition, because some persons who are transitionally needy suffer from serious personal problems or barriers to employment, the state should provide assistance to enable these persons to overcome the problems that impair their employment potential.

History: En. Sec. 1, Ch. 580, L. 1989; amd. Sec. 2, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, throughout section, after "general relief", deleted "assistance"; in (6)(a), after "because their", deleted "age or"; in (6)(b), near beginning, inserted reference to a temporary disability; and made minor changes in style.

53-3-122. Legislative policy and intent. Consistent with the findings in 53-3-121, the legislature intends that:

(1) general relief should be provided to those in need, but only to the extent of such need;

(2) unemployable persons, because they are chronically in need, should be afforded general relief for as long as they have need for such assistance;

(3) temporarily unemployable persons, being transitionally needy, may be granted 6 months of general relief for basic necessities during a 12-month period, which relief will be available only if those persons participate in a self-sufficiency program as required by 53-3-304;

(4) employable persons, being transitionally needy, should be granted 4 months of general relief, which relief will be available only if such persons participate in a job search, training, and work program as required by 53-3-304; and

(5) in recognition that not all employable persons are ready to participate in the work force and that the state has a duty to protect the welfare of children, general relief should be provided for 6 months to persons who meet the eligibility criteria provided in 53-3-215.

History: En. Sec. 2, Ch. 580, L. 1989; amd. Sec. 3, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, in (1), after "general relief", deleted "assistance"; inserted (3) relating to amount of general relief for temporarily unemployable persons; in (4), after "general relief", deleted "for basic necessities"; and in (5), after "welfare of children", deleted "nonmedical".

Part 2

Eligibility and Application for General Relief

53-3-201. Residency requirements. (1) Any person otherwise qualified who makes his home in Montana with the intent to become a resident shall be eligible for general relief.

(2) Persons new to Montana are eligible for general relief reduced benefits for the first 2 months of their Montana residency.

(3) If a person is absent from the state voluntarily, he is ineligible for general relief in Montana.

(4) Aliens found to be illegally within the United States are not eligible for relief from state funds.

(5) Nonresidents or interstate transients may receive temporary relief from county funds in cases of extreme necessity and destitution until they are returned at state expense to their state of residence or origin.

History: En. 71-302.2 by Sec. 1, Ch. 225, L. 1974; amd. Sec. 25, Ch. 37, L. 1977; R.C.M. 1947, 71-302.2(part); amd. Sec. 4, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, inserted (2) relating to persons new to Montana.

53-3-205. Eligibility for general relief. (1) Except as otherwise provided under this chapter, a person may receive general relief if the household is determined to be eligible under the provisions of this section.

(2) A person is eligible for general relief if his total household income, including presumptive income but exclusive of the earned income disregard provided in subsection (4), does not exceed the amount established by the department by rule. The department shall establish eligibility and the amount of benefits to be granted, taking into account the size of the household and the estimated number of eligible households. Eligibility and the amount of benefits to be granted must be based on a percentage of the federal poverty index. The percentage is established in the state general appropriations act.

(3) The maximum benefit amount to be granted to a person new to Montana must be reduced by $50 per month for each of the first 2 months of the person's residency.

(4) For 4 consecutive months, the first $30 plus one-third of the remainder of the total income earned each month by each household member who is a current recipient must be disregarded in determining a household's eligibility for general relief. If the total household income, exclusive of this amount, exceeds the amount established by the department under subsection (2), the

household is not eligible for general relief. A current recipient is one who has been receiving general relief for at least 1 complete calendar month.

(5) (a) If a person's household income exceeds the monthly income standard provided in subsection (2) because of receipt of lump-sum income, he is ineligible for general relief for the full number of months, beginning with the month of receipt, derived by dividing the total of the lump-sum income and other income by the monthly income standard. Any income remaining from this calculation will be considered as income in the first month following the period of ineligibility.

(b) The period of ineligibility may be recalculated if the household size changes or if a portion of the lump-sum income was used to pay medical bills for a serious medical condition.

(6) All applicants for and recipients of general relief who reside in the same residence are considered as one household.

(7) Eligibility for general relief must be determined prospectively, based on household income and other relevant circumstances reasonably certain to exist in the month in which assistance is to be provided. Once eligibility is determined, general relief will be provided in accordance with 53-3-310 and 53-3-311.

(8) (a) Except as provided in subsection (8)(b), the equity value of all household resources must be considered available to meet the needs of the individual applying for general relief.

(b) The following resources of a household must be excluded from consideration of resources for eligibility purposes:

(i) the domicile of the household, including necessary appurtenant land not exceeding 10 acres;

(ii) a motor vehicle that has no more than $1,500 in equity value;

(iii) personal items, clothing, household furniture, appliances, and other essential household items, the total equity value of which does not exceed resource eligibility limits established by rule; and

(iv) tools of a trade that are essential to the current or future employment of a household member.

(9) A person who is committed or sentenced by legal process to a state institution or a secure facility or who is incarcerated in a secure facility pending resolution of legal process is not eligible for general relief.

(10) A person who resides for a period of 1 day or more in any state or federally operated institution or residence is not eligible for general relief for the period of that residency.

(11) For the purposes of an eligibility determination, an applicant for or recipient of general relief may be requested to produce all financial and other information concerning the household.

(12) A household is ineligible to receive general relief if the household is ineligible for either of the public assistance programs commonly referred to as medicaid and aid to families with dependent children because of overpayment, fraud, or failure or refusal to comply with requirements for continued participation in either program. The period of ineligibility for the household or individual household members is the same as the period of ineligibility for

medicaid or the aid to families with dependent children program or, if ineligible for both programs, whichever period of ineligibility is longer.

(13) Whenever practical, an eligibility determination must be made within 30 days of the date of application and the applicant must be notified in writing of the eligibility determination and the reasons for the determination.

History: En. Sec. 4, Ch. 670, L. 1985; amd. Sec. 3, Ch. 10, Sp. L. June 1986; amd. Sec. 1, Ch. 614, L. 1987; amd. Sec. 5, Ch. 451, L. 1989; amd. Sec. 5, Ch. 580, L. 1989; amd. Sec. 1, Ch. 585, L. 1989; amd. Secs. 1, 5, Ch. 603, L. 1989; amd. Sec. 5, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, throughout section, after "general relief", deleted "assistance"; in (1), after "general relief", deleted "for basic necessities"; in (2), in middle, inserted two references to eligibility and two references to amount of benefits to be granted and changed reference to subsection (3) to reference to subsection (4); inserted (3) specifying the maximum benefit for person new to Montana; deleted former (4)(c) that read: "(c) Ineligibility due to the receipt of lump-sum income does not preclude eligibility for general relief medical assistance"; at beginning of (7), after "Eligibility for", deleted "nonmedical" and in second sentence substituted "general relief will be provided" for "an individual must be paid benefits" and substituted "53-3-310 and" for "the method provided for in"; in (8)(a) changed reference to subsection (7)(b) to reference to subsection (8)(b); inserted (12) relating to ineligibility of household to receive general relief; and made minor changes in style.

53-3-206. Repealed. Sec. 24, Ch. 7, Sp. L. July 1992.

53-3-209. Period of eligibility. (1) The period of eligibility for receipt of general relief is 1 month. Except as provided in subsection (3), a person may seek to establish eligibility for the succeeding month prior to the end of the current month of eligibility.

(2) Eligibility for general relief medical assistance is granted for a period of 1 month and terminates when the serious medical condition of the person has been treated. Except as provided in subsection (3), continued eligibility for general relief medical assistance may be established in any subsequent month.

(3) The period of eligibility for any type of general relief terminates at any time the county welfare board or the department determines that the household:

(a) no longer meets the applicable eligibility requirements; or

(b) received general relief by means of fraud or mistake.

History: En. Sec. 10, Ch. 670, L. 1985; amd. Sec. 5, Ch. 10, Sp. L. June 1986; amd. Sec. 7, Ch. 451, L. 1989; amd. Sec. 7, Ch. 580, L. 1989; amd. Sec. 6, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, near beginning of (1), after "general relief", deleted "for basic necessities"; and in two places in (3), after "general relief", deleted "assistance".

53-3-211. Ineligibility due to voluntary termination of employment. (1) A person is not eligible to receive general relief for a period of 3 months if he has voluntarily left employment without good cause connected to such employment. The period of ineligibility begins on the first day of the next month in which the person would otherwise be eligible for general relief.

(2) For purposes of subsection (1), a person has voluntarily left employment with good cause if he has left work because of:

(a) a compelling reason directly related to the job under circumstances that would cause a reasonably prudent person to leave his employment;

(b) work conditions that pose an undue risk of personal injury, illness, or harm;

(c) unlawful discrimination, harassment, or other mistreatment by the employer; or

(d) personal illness or injury and, after recovering from such illness or injury, he returns to his employer and finds no suitable work available.

History: En. Sec. 1, Ch. 563, L. 1989; amd. Sec. 7, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, near beginning of (1), after "general relief", deleted "assistance" and inserted second sentence relating to the period of ineligibility.

53-3-212. Ineligibility because of discharge due to misconduct. (1) A person is ineligible to receive general relief for a period of 3 months if he has been discharged or suspended from employment for misconduct related to the individual's work or affecting his employment. The period of ineligibility begins on the first day of the next month in which the person would otherwise be eligible for general relief.

(2) For purposes of subsection (1), "misconduct" means:

(a) intentional, willful, or wanton disregard of the employer's interest or of the employee's duties and obligations to his employer;

(b) material breach of the employee's duty to his employer as found in:

(i) the employee's deliberate violation or disregard of standards of behavior that the employer has a right to expect of his employee; or

(ii) carelessness or negligence of such degree or recurrence as to manifest culpability, wrongful intent, or evil design or to show an intentional or substantial disregard of the employer's interest;

(c) dishonesty toward the employer, including acts such as deliberate falsification of company records, theft, deliberate deception, lying, and other statements or acts that demonstrate a willful or wanton disregard of the employer's interest;

(d) excessive, unexcused absences from work or repeated, unexcused tardiness by the employee;

(e) insubordination; or

(f) assault, threats of violence, provoking a fight, or stealing from a fellow employee if committed on the premises of the employer.

(3) The following do not constitute misconduct within the meaning of subsection (1):

(a) mere inefficiency or unsatisfactory conduct of the employee;

(b) inadvertence or ordinary negligence in isolated instances; or

(c) good faith errors in judgment or discretion.

History: En. Sec. 2, Ch. 563, L. 1989; amd. Sec. 8, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, at beginning of (1), after "general relief", deleted "assistance" and inserted second sentence regarding period of ineligibility.

53-3-215. Eligibility classifications — duration of assistance. (1) For purposes of eligibility, a recipient of general relief must be classified as either employable, temporarily unemployable, or unemployable.

(2) Unemployable persons may receive general relief for as long as they remain eligible.

(3) Except as provided in subsection (4), employable persons who are otherwise eligible may receive general relief for a period not to exceed 4 months in any 12-month period.

(4) An employable person may receive general relief for a maximum of 6 months in any 12-month period if such person:

(a) has a serious barrier to employment and is willing to participate in a program to overcome that employment barrier;

(b) suffers from drug or alcohol dependency and, subject to available funding, is undergoing active treatment in an approved program; or

(c) is the head of a household that includes minor dependent children and is enrolled in a job search, training, workfare, or self-sufficiency program as required by 53-3-304.

(5) A temporarily unemployable person complying with 53-3-303 may receive general relief for a maximum of 6 months in any 12-month period.

(6) Assistance granted prior to January 1, 1990, may not be considered in determining eligibility.

(7) Subsections (3) and (4) do not apply to general relief medical assistance.

History: En. Sec. 4, Ch. 580, L. 1989; amd. Sec. 9, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, in (1) inserted "temporarily unemployable"; in (3), after "general relief", deleted "for basic necessities"; in (4), after "may receive", deleted "nonmedical"; in (4)(c) substituted "workfare, or self-sufficiency program" for "and work program"; inserted (5) authorizing a temporarily unemployable person to receive general relief; and inserted (7) relating to the application of subsections (3) and (4).

Part 3

Conditions and Form of Assistance
Liability for Assistance

53-3-303. Conditions of eligibility. (1) As a condition of eligibility for general relief, an employable or temporarily unemployable recipient must:

(a) register for employment with the department of labor and industry;

(b) maintain an active job registration file;

(c) comply with and actively participate in any job search, training, workfare, or self-sufficiency program required by the department; and

(d) actively pursue and accept available employment within his or her capability.

(2) Refusal without good cause to comply with the requirements of subsection (1) will render the individual recipient, but not the rest of that

recipient's household, ineligible for general relief for 3 months following the first refusal and for 6 months following any subsequent refusal. The period of ineligibility begins on the first day of the next month in which the person would otherwise be eligible for general relief.

History: En. Sec. 5, Part 2, Ch. 82, L. 1937; amd. Sec. 13, Ch. 129, L. 1939; amd. Sec. 1, Ch. 180, L. 1963; amd. Sec. 28, Ch. 121, L. 1974; amd. Sec. 1, Ch. 208, L. 1974; amd. Sec. 29, Ch. 37, L. 1977; R.C.M. 1947, 71-307(part); amd. Sec. 1, Ch. 349, L. 1981; amd. Sec. 1, Ch. 579, L. 1989; amd. Sec. 10, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, in (1) and (2), after "general relief", deleted "assistance"; in (1) inserted "or temporarily unemployable"; inserted (1)(c) requiring compliance with a program required by Department; in (2) inserted last sentence regarding period of ineligibility; and made minor changes in style.

53-3-304. Power to require employable and temporarily unemployable recipients to participate in job search, training, workfare, and self-sufficiency programs. (1) The department shall initiate, promote, and develop job search, training, workfare, and self-sufficiency programs that will provide any combination of employment, training, work experience, or self-sufficiency for persons receiving general relief under the provisions of this chapter. These programs must be designed to:

(a) preserve and improve the work habits and skills of recipients for whom jobs are not otherwise immediately available;

(b) provide training and work experience that will enable recipients to find regular, sustainable employment; and

(c) provide necessary supportive services and training in order to overcome any condition of temporary unemployability.

(2) For each county with state-assumed welfare services, the department shall institute job search, training, workfare, and self-sufficiency programs as provided in subsection (1).

(3) Except as otherwise provided in this chapter, in a county with state-assumed welfare services, an employable or temporarily unemployable recipient of general relief shall enroll in a structured job search, training, or self-sufficiency program, as required, at an employment office or other site designated by the department. The programs may include the following elements:

(a) assessment and testing;

(b) an employability plan;

(c) a requirement that recipients participate for a minimum of 40 hours a week in a combination of activities, including workfare as provided in subsection (4), unless they are prevented with good cause from participating in such activities;

(d) remedial education or job skills training, if it is called for in the employability plan and if it provides for immediate referral to an appropriate Job Training Partnership Act program;

(e) a job readiness and job search program that may include:

(i) self-assessment and occupational testing;

(ii) instruction in completing applications, writing resumes, and preparing for interviews;

(iii) identification of and contact with potential employers;

(iv) participation in simulated job interviews; and

(v) intensive job search activity and prompt placements for recipients who are ready to enter the work force;

(f) a supervised effort to find employment;

(g) efforts to address barriers to employment;

(h) an expectation that recipients must be employed at the end of the program;

(i) followup and monitoring of program performance;

(j) supportive services necessary to overcome temporary unemployability;

(k) a self-sufficiency plan; and

(l) concentrated rehabilitation activities.

(4) In addition to the training required in subsection (3), the county department of public welfare or the department of social and rehabilitation services may require a recipient to participate in a workfare program. The purpose of the workfare program is to provide work experience and training for general relief recipients in specifically created work projects operated by a public agency or a private, nonprofit agency. A workfare program established under this section must provide that:

(a) a currently employed worker may not be displaced by any recipient (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits);

(b) a recipient may not be given a work experience or training assignment if:

(i) the assignment would fill an established, unfilled vacancy that exists because an employee has been laid off; or

(ii) the employer has terminated the employment of any regular employee or otherwise reduced its work force with the intention of filling the vacancy with a general relief recipient;

(c) a recipient may not be required to participate in a workfare program if participation is determined to interfere with:

(i) participation in a job search, training, or self-sufficiency program; or

(ii) attendance in a secondary education program;

(d) the maximum number of hours that a recipient may be required to participate in a workfare program and job search, training, and self-sufficiency programs may not exceed 40 hours in a week.

(5) The county department of public welfare or the department of social and rehabilitation services, as the case may be, shall provide coverage under the Workers' Compensation Act for those recipients of general relief participating in the workfare program and may enter into such agreements with the department of labor and industry as may be necessary to carry out the provisions of this section.

(6) Where a labor organization represents a substantial number of employees who are engaged in similar work or training in the area where it is proposed to assign the recipient to a workfare project, an opportunity must be provided for that organization to submit comments with respect to such proposal.

(7) A workfare program may not impair existing contracts for services or collective bargaining agreements, and a workfare program that would be

inconsistent with the terms of a collective bargaining agreement may not be undertaken without the written concurrence of the labor organization and employer concerned.

(8) No program established under this section may include any political, partisan, or lobbying activities. The department shall deny funds to any program involved in such activities.

History: En. Sec. 5, Part 2, Ch. 82, L. 1937; amd. Sec. 13, Ch. 129, L. 1939; amd. Sec. 1, Ch. 180, L. 1963; amd. Sec. 28, Ch. 121, L. 1974; amd. Sec. 1, Ch. 208, L. 1974; amd. Sec. 29, Ch. 37, L. 1977; R.C.M. 1947, 71-307(part); amd. Sec. 17, Ch. 651, L. 1983; amd. Sec. 1, Ch. 10, Sp. L. March 1986; amd. Sec. 2, Ch. 614, L. 1987; amd. Sec. 8, Ch. 451, L. 1989; amd. Sec. 8, Ch. 580, L. 1989; amd. Sec. 64, Ch. 613, L. 1989; amd. Sec. 1, Ch. 701, L. 1989; amd. Sec. 11, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, throughout section added references to self-sufficiency; near beginning of (1), after "that will provide", inserted "any combination" and after "general relief" deleted "assistance"; inserted (1)(c) requiring supportive services and training; near beginning of (3) inserted "or temporarily unemployable", after "general relief" deleted "assistance", and after "program" inserted "as required"; inserted (3)(j), (3)(k), and (3)(l) regarding supportive services, a self-sufficiency plan, and concentrated rehabilitation activities; and made minor changes in style.

53-3-305. Effect of refusal to participate in mandatory programs. Any recipient of general relief who is subject to the provisions of 53-3-304 and 53-3-321 and who without good cause refuses to participate in a required program or to perform work assigned to him as therein provided shall lose eligibility for general relief for 3 months following the first refusal and for 6 months following any subsequent refusal. The period of ineligibility begins on the first day of the next month in which the person would otherwise be eligible for general relief.

History: En. Sec. 5, Part 2, Ch. 82, L. 1937; amd. Sec. 13, Ch. 129, L. 1939; amd. Sec. 1, Ch. 180, L. 1963; amd. Sec. 28, Ch. 121, L. 1974; amd. Sec. 1, Ch. 208, L. 1974; amd. Sec. 29, Ch. 37, L. 1977; R.C.M. 1947, 71-307(3); amd. Sec. 2, Ch. 10, Sp. L. March 1986; amd. Sec. 2, Ch. 579, L. 1989; amd. Sec. 12, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, inserted last sentence regarding the period of ineligibility.

53-3-307. County medical assistance not to be paid from state funds — exception. (1) County general relief medical assistance shall not be entitled to be paid from state funds.

(2) Medical expenses arising from accidental injury to interstate transients shall be paid from county funds and reimbursed by the state upon submission of a proper claim.

History: En. 71-302.2 by Sec. 1, Ch. 225, L. 1974; amd. Sec. 25, Ch. 37, L. 1977; R.C.M. 1947, 71-302.2(part); amd. Sec. 26, Ch. 670, L. 1985; amd. Sec. 13, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, in (1), after "medical assistance", deleted "under 53-3-206".

53-3-310. Scope of general relief medical assistance — limitations. (1) General relief medical assistance is limited to inpatient and outpatient hospital services, physician services, and prescription drugs. Assistance may

not exceed the scope or duration of similar services provided under the Montana medicaid program pursuant to Title 53, chapter 6, part 1, and rules adopted by the department to administer the program.

(2) General relief medical assistance in a county without state-assumed welfare services must, within the limitations of subsection (1), be provided in amounts determined by the county welfare board.

(3) General relief medical assistance in counties with state-assumed welfare services must, within the limitations of subsection (1), be provided in amounts not to exceed payments under the medicaid program. Services must be limited to the least costly method of alleviating the serious medical condition.

(4) General relief medical assistance is limited to covered medical needs not met by other services or benefits available to the person. Available services or benefits include but are not limited to health and accident insurance, veterans' benefits, industrial accident benefits, medicare and medicaid benefits, and other liable third parties.

(5) A person who is chronically ill may receive general relief medical assistance for services limited to treatment of a serious medical condition related to chronic illness.

(6) A person who has an acute medical need but who is not chronically ill may receive general relief medical assistance but only for services necessary to treat a serious medical condition that requires immediate medical attention to alleviate a serious health risk.

(7) A child less than 18 years of age may receive the same scope and duration of services as provided under the Montana medicaid program provided for in Title 53, chapter 6.

(8) A person who requires medical services in order to obtain or retain employment may receive services similar to those provided under the Montana medicaid program but only for the duration of need.

(9) Except as provided in subsection (7), nothing in this chapter may be construed to require the same scope of medical services as provided under the Montana medicaid program.

History: En. Sec. 14, Ch. 670, L. 1985; amd. Sec. 3, Ch. 442, L. 1991; amd. Sec. 14, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, in (1) substituted "inpatient and outpatient hospital services, physician services, and prescription drugs" for "those services medically necessary to treat a person's serious medical condition".

1991 Amendment: In (1), near beginning of first sentence after "services", substituted "medically" for "determined" and near beginning of second sentence, after "duration", inserted "of similar services"; inserted (5) concerning limitation of chronic illness assistance; inserted (6) concerning limitation of general relief medical assistance; inserted (7) concerning services for child less than 18 years of age; inserted (8) concerning services necessary for employment; inserted (9) concerning limitation of medical services under Medicaid; and made minor change in style. Amendment effective July 1, 1991.

53-3-311. Amount of general relief. (1) In a county without state-assumed welfare services, the amounts of general relief must be determined and adopted at the discretion of the county welfare board.

(2) In a county with state-assumed welfare services, the amount of general relief available to an eligible household is the amount determined for

the same size household pursuant to 53-3-205(2) and (3), less countable income and resources not excluded in 53-3-205(4) and (8).

(a) Countable income during the first 2 months of continuous eligibility is the income the household is likely to receive during the benefit month, less the amounts excluded in 53-3-205(2).

(b) Countable income in the third and all consecutive continuous months of eligibility is the income the household received in the second calendar month immediately preceding the benefit month less the amounts excluded in 53-3-205(2).

History: En. Sec. 15, Ch. 670, L. 1985; amd. Sec. 10, Ch. 451, L. 1989; amd. Sec. 3, Ch. 585, L. 1989; amd. Sec. 3, Ch. 603, L. 1989; amd. Sec. 15, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, in (1) and (2), after "general relief", deleted "for basic necessities"; and in (2), after "53-3-205(2)", inserted "and (3)" and changed reference to 53-3-205(3) and (7) to reference to 53-3-205(4) and (8).

53-3-321. Services for recipients in need of special assistance. (1) Unless otherwise exempted, in a county with state-assumed welfare services, a person who has a serious barrier to employment, who is temporarily unemployable, or who suffers from drug or alcohol dependency shall report to any combination of a job search, training, workfare, or self-sufficiency program, as required by the department, for the purpose of receiving an assessment to determine whether the person is likely to benefit from counseling, therapy, or rehabilitation. The agency shall require that the person be enrolled in any combination of:

(a) a job search, training, workfare, or self-sufficiency program established under 53-3-304, except that the person need not participate in the job search program under 53-3-304(3)(e) until the agency determines that the person is ready to participate in the work force; or

(b) a program designed specifically to help that person overcome problems that impair the potential for employment.

(2) Subject to available funding, a program provided for in subsection (1)(b) may include the following elements:

(a) assessment and testing;

(b) an employability or self-sufficiency plan;

(c) remedial education or job skills training, if required by the employability or self-sufficiency plan;

(d) a chemical dependency assessment; and

(e) services, including counseling, therapy, and rehabilitation, to address serious barriers to employment and drug or alcohol dependency.

(3) In order to encourage rehabilitation, the department may restrict services to persons suffering from drug or alcohol dependency to one intervention through the provision of services described in subsections (2)(a) through (2)(e).

History: En. Sec. 10, Ch. 580, L. 1989; amd. Sec. 16, Ch. 580, L. 1989; amd. Sec. 12, Ch. 701, L. 1989; amd. Sec. 45, Ch. 16, L. 1991; amd. Sec. 16, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, throughout section inserted references to self-sufficiency; near beginning of (1) inserted "who is temporarily unemployable", after "report to" inserted "any combination of", after "program" inserted "as required by the department", and after "enrolled in" substituted "any combination of" for "either"; inserted (2)(d) relating to chemical

dependency assessment; in (3) changed reference to subsection (2)(d) to reference to subsection (2)(e) and deleted second sentence authorizing Department to provide additional benefits for persons participating in a drug or alcohol rehabilitation program; and made minor changes in style.

1991 Amendment: In (1) and (1)(a) substituted "workfare program" for "work program".

53-3-322. Payment after performance. (1) The department may by rule withhold general relief or limit payments to shelter or personal needs until all employable or temporarily unemployable members of the household have completed 4 full weeks in a structured job search, training, workfare, or self-sufficiency program as required in 53-3-304.

(2) A person is ineligible for assistance under subsection (1) if:

(a) the person fails to cooperate with the department in its investigation of eligibility; or

(b) the department's investigation during the 4-week period described in subsection (1) discloses that the person is ineligible to receive assistance.

History: En. Sec. 2, Ch. 701, L. 1989; amd. Sec. 17, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, in (1), after "general relief", deleted "assistance", after "employable" inserted "or temporarily unemployable", increased program to 4 full weeks from 2 full weeks, and after "workfare" inserted "or self-sufficiency"; and in (2)(b) increased period to 4 weeks from 2 weeks.

53-3-323. Limitation of services. (1) The department may limit the scope and availability of programs and services under 53-3-304 as may be necessary because of:

(a) the actual needs of an individual, as determined in accordance with an employability or self-sufficiency plan;

(b) funding limitations;

(c) service limitations;

(d) limitations caused by the lack of available employment in the area; and

(e) an insufficient number of recipients in an area to justify establishment of any combination of a job search, training, workfare, or self-sufficiency program.

(2) Recipients residing in areas where programs and services are restricted because of subsection (1) are exempt from mandatory participation in a job search, training, workfare, or self-sufficiency program.

History: En. Sec. 3, Ch. 701, L. 1989; amd. Sec. 18, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, throughout section inserted references to self-sufficiency; in (1)(e) inserted "any combination of a"; and made minor changes in style.

53-3-324. Employability and self-sufficiency plans. (1) The department shall develop or contract for the development of an employability or self-sufficiency plan, as appropriate, for each participant enrolled in a job search, training, workfare, or self-sufficiency program provided for in 53-3-304.

(2) The department may contract for assessment and testing if:

(a) it determines there is a need for assessment and testing in order to develop a plan; and

(b) funds are available for such services.

History: En. Sec. 4, Ch. 701, L. 1989; amd. Sec. 19, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, in (1) inserted two references to self-sufficiency and after "plan" inserted "as appropriate"; in (2)(a), before "plan", deleted "an employability"; and made minor changes in style.

53-3-325. Transition-to-work allowance. (1) As an alternative to the programs and services provided in 53-3-304, the department may pay recipients a transition-to-work allowance. This allowance may be used only for relocation expenses for recipients who have obtained employment in another county or state.

(2) Notwithstanding any other provision of this chapter, a person who elects to receive the allowance provided in subsection (1) is ineligible for general relief for a period of 16 months.

History: En. Sec. 5, Ch. 701, L. 1989; amd. Sec. 20, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, in (2), after "general relief", deleted "assistance"; and made minor changes in style.

53-3-326. Transportation assistance. The department may provide necessary transportation or reimbursement of transportation costs for persons enrolled in job search, training, workfare, or self-sufficiency programs provided in 53-3-304.

History: En. Sec. 6, Ch. 701, L. 1989; amd. Sec. 21, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, near end inserted "or self-sufficiency"; and made minor changes in style.

53-3-327. Performance standards — monitoring and evaluation of program. (1) The department shall provide standards to measure the performance and effectiveness of the general relief job search, training, workfare, and self-sufficiency programs provided in 53-3-304. The standards must consist of an objective, quantifiable measure of the extent to which participation in the program increases the employment and earnings of participants and decreases their dependency on public assistance.

(2) In order to determine whether performance standards are met, the department shall monitor and evaluate the program on the basis of appropriate factors that must include the following:

(a) the placement of participants in unsubsidized employment;

(b) the retention of participants in unsubsidized employment;

(c) the increase in earnings, including hourly wages, of participants due to placement in unsubsidized employment;

(d) the reduction in the number of individuals and families receiving general relief; and

(e) the amount of reductions in payments for general relief.

(3) In monitoring and evaluating the performance of the program, the department shall determine the reasons for high and low levels of performance, administrative efficiencies, and program coordination.

History: En. Sec. 7, Ch. 701, L. 1989; amd. Sec. 22, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, in (1), after "workfare", inserted "and self-sufficiency"; and made minor changes in style.

53-3-328. Employability determination — reassessment of additional eligibility. During the final month of eligibility, a vocational specialist shall conduct a reassessment of each applicant for general relief to determine whether the applicant should be reclassified as employable, temporarily unemployable, or unemployable or should remain classified as having serious barriers to employment. The reassessment must include an evaluation of the applicant's education, training, experience, and ability to work in substantial, gainful employment.

History: En. Sec. 2, Ch. 578, L. 1991; amd. Sec. 23, Ch. 7, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 7, Sp. L. July 1992, before "general relief" deleted "nonmedical", after "employable" inserted "temporarily unemployable", and after "barriers to employment" deleted "and benefits extended according to 53-3-321(3)".

Effective Date: Section 4, Ch. 578, L. 1991, provided that this section is effective July 1, 1991.

CHAPTER 9

SERVICES FOR VICTIMS OF CRIME

Part 1

The Crime Victims Compensation Act of Montana

53-9-109. *(Temporary)* **Crime victims compensation and assistance account.** (1) There is a crime victims compensation and assistance account in the state special revenue fund. There shall be paid into this account 18% of the fines assessed and bails forfeited, except those paid to a justice's court, on all offenses involving a violation of chapter 3, part 1 of chapter 4, or chapters 5 through 10 of Title 61 that are a result of citations or tickets issued by the highway patrol. Except as provided in subsection (2), the money in the account is to be used solely for the purposes of this part and for victims' assistance program coordination and planning provided by the division. Except as provided in subsection (2), no fund balance in the account at the end of a fiscal year may be deposited in the general fund.

(2) On or before September 1, 1992, the division shall transfer $100,000 from the crime victims compensation and assistance account to the general fund. *(Terminates September 2, 1992—sec. 8(2), Ch. 11, Sp. L. July 1992.)*

53-9-109. *(Effective September 2, 1992)* **Crime victims compensation and assistance account.** There is a crime victims compensation and assis-

tance account in the state special revenue fund. There shall be paid into this account 18% of the fines assessed and bails forfeited, except those paid to a justice's court, on all offenses involving a violation of chapter 3, part 1 of chapter 4, or chapters 5 through 10 of Title 61 that are a result of citations or tickets issued by the highway patrol. The money in the account is to be used solely for the purposes of this part and for victims' assistance program coordination and planning provided by the division. No fund balance in the account at the end of a fiscal year may be deposited in the general fund.

History: En. 71-2624 by Sec. 25, Ch. 527, L. 1977; R.C.M. 1947, 71-2624; amd. Sec. 3, Ch. 367, L. 1979; amd. Sec. 97, Ch. 421, L. 1979; amd. Sec. 1, Ch. 567, L. 1981; amd. Sec. 27, Ch. 281, L. 1983; amd. Sec. 37, Ch. 557, L. 1987; amd. Sec. 4, Ch. 68, L. 1989; amd. Sec. 3, Ch. 354, L. 1991; amd. Sec. 1, Ch. 19, Sp. L. January 1992; amd. Sec. 4, Ch. 11, Sp. L. July 1992.

Compiler's Comments

July 1992 Special Session Amendment: Chapter 11, Sp. L. July 1992, in (1), near middle and end, inserted exception clauses; and inserted (2) transferring $100,000 from the crime victims compensation and assistance account to the general fund. Amendment effective August 6, 1992, and terminates September 2, 1992.

January 1992 Special Session Amendment: Chapter 19, in (1), at beginning of third and fourth sentences, inserted exception clause; and inserted (2) requiring transfer of $250,000 to the general fund on or before June 30, 1992. Amendment effective February 4, 1992.

Termination: Section 2, Ch. 19, Sp. L. January 1992, provided that this section terminates July 1, 1993.

1991 Amendment: Near middle of first sentence, after "compensation", inserted "and assistance", at end of third sentence inserted "for victims' assistance program coordination and planning provided by the division", and in fourth sentence substituted "fund" for "cash" and "year" for "biennium"; and made minor changes in style.

TITLE 61

MOTOR VEHICLES

CHAPTER 3

CERTIFICATES OF OWNERSHIP, REGISTRATION, AND TAXATION OF MOTOR VEHICLES

Part 5

Taxes and Fees

61-3-502. *(Temporary)* **Sales tax on new motor vehicles — exemptions.** (1) In consideration of the right to use the highways of the state, there is imposed a tax upon all sales of new motor vehicles, excluding trailers, semitrailers, and housetrailers, for which a license is sought and an original

application for title is made. The tax must be paid by the purchaser when he applies for his original Montana license through the county treasurer.

(2) Except as provided in subsections (4) and (5), the sales tax is:

(a) 1 ½% of the f.o.b. factory list price or f.o.b. port-of-entry list price, during the first quarter of the year or for a registration period other than a calendar year or calendar quarter;

(b) 1 ⅛% of the list price during the second quarter of the year;

(c) ¾ of 1% during the third quarter of the year;

(d) ⅜ of 1% during the fourth quarter of the year.

(3) If the manufacturer or importer fails to furnish the f.o.b. factory list price or f.o.b. port-of-entry list price, the department may use published price lists.

(4) The new car sales tax on vehicles subject to the provisions of 61-3-313 through 61-3-316 is 1 ½% of the f.o.b. factory list price or f.o.b. port-of-entry list price regardless of the month in which the new vehicle is purchased.

(5) The sales tax on new motor vehicles registered as part of a fleet under 61-3-318 is ¾ of 1% of the f.o.b. factory list price or f.o.b. port-of-entry list price.

(6) Except as provided in 61-3-551, the proceeds from this tax must be remitted to the state treasurer every 30 days for credit to the state highway account of the state special revenue fund.

(7) The new vehicle is not subject to any other assessment, fee in lieu of tax, or tax during the calendar year in which the original application for title is made.

(8) (a) The applicant for original registration of any new and unused motor vehicle, or a new motor vehicle furnished without charge by a dealer to a school district for use as a traffic education motor vehicle by a school district operating a state-approved traffic education program within the state, whether or not previously licensed or titled to the school district (except a mobile home as defined in 15-1-101(1)), acquired by original contract after January 1 of any year, is required, whenever the vehicle has not been otherwise assessed, to pay the motor vehicle sales tax provided by this section irrespective of whether the vehicle was in the state of Montana on January 1 of the year.

(b) No motor vehicle may be registered or licensed under the provisions of this subsection unless the application for registration is accompanied by a statement of origin to be furnished by the dealer selling the vehicle, showing that the vehicle has not previously been registered or owned, except as otherwise provided herein, by any person, firm, corporation, or association that is not a new motor vehicle dealer holding a franchise or distribution agreement from a new car manufacturer, distributor, or importer.

(9) (a) Motor vehicles operating exclusively for transportation of persons for hire within the limits of incorporated cities or towns and within 15 miles from such limits are exempt from subsection (1).

(b) Motor vehicles brought or driven into Montana by a nonresident, migratory, bona fide agricultural worker temporarily employed in agricultural work in this state where those motor vehicles are used exclusively for transportation of agricultural workers are also exempt from subsection (1).

(c) Vehicles lawfully displaying a licensed dealer's plate as provided in 61-4-103 are exempt from subsection (1) when moving to or from a dealer's place of business when unloaded or loaded with dealer's property only, and in the case of vehicles having a gross loaded weight of less than 24,000 pounds, while being demonstrated in the course of the dealer's business.

61-3-502. *(Effective on receipt of taxes or fees for September 1993)* **Sales tax on new motor vehicles — exemptions.** (1) In consideration of the right to use the highways of the state, there is imposed a tax upon all sales of new motor vehicles, excluding trailers, semitrailers, and housetrailers, for which a license is sought and an original application for title is made. The tax must be paid by the purchaser when he applies for his original Montana license through the county treasurer.

(2) Except as provided in subsections (4) and (5), the sales tax is:

(a) 1 ½% of the f.o.b. factory list price or f.o.b. port-of-entry list price, during the first quarter of the year or for a registration period other than a calendar year or calendar quarter;

(b) 1 ⅛% of the list price during the second quarter of the year;

(c) ¾ of 1% during the third quarter of the year;

(d) ⅜ of 1% during the fourth quarter of the year.

(3) If the manufacturer or importer fails to furnish the f.o.b. factory list price or f.o.b. port-of-entry list price, the department may use published price lists.

(4) The new car sales tax on vehicles subject to the provisions of 61-3-313 through 61-3-316 is 1 ½% of the f.o.b. factory list price or f.o.b. port-of-entry list price regardless of the month in which the new vehicle is purchased.

(5) The sales tax on new motor vehicles registered as part of a fleet under 61-3-318 is ¾ of 1% of the f.o.b. factory list price or f.o.b. port-of-entry list price.

(6) The proceeds from this tax must be remitted to the state treasurer every 30 days for credit to the state highway account of the state special revenue fund.

(7) The new vehicle is not subject to any other assessment, fee in lieu of tax, or tax during the calendar year in which the original application for title is made.

(8) (a) The applicant for original registration of any new and unused motor vehicle, or a new motor vehicle furnished without charge by a dealer to a school district for use as a traffic education motor vehicle by a school district operating a state-approved traffic education program within the state, whether or not previously licensed or titled to the school district (except a mobile home as defined in 15-1-101(1)), acquired by original contract after January 1 of any year, is required, whenever the vehicle has not been otherwise assessed, to pay the motor vehicle sales tax provided by this section irrespective of whether the vehicle was in the state of Montana on January 1 of the year.

(b) No motor vehicle may be registered or licensed under the provisions of this subsection unless the application for registration is accompanied by a statement of origin to be furnished by the dealer selling the vehicle, showing that the vehicle has not previously been registered or owned, except as

otherwise provided herein, by any person, firm, corporation, or association that is not a new motor vehicle dealer holding a franchise or distribution agreement from a new car manufacturer, distributor, or importer.

(9) (a) Motor vehicles operating exclusively for transportation of persons for hire within the limits of incorporated cities or towns and within 15 miles from such limits are exempt from subsection (1).

(b) Motor vehicles brought or driven into Montana by a nonresident, migratory, bona fide agricultural worker temporarily employed in agricultural work in this state where those motor vehicles are used exclusively for transportation of agricultural workers are also exempt from subsection (1).

(c) Vehicles lawfully displaying a licensed dealer's plate as provided in 61-4-103 are exempt from subsection (1) when moving to or from a dealer's place of business when unloaded or loaded with dealer's property only, and in the case of vehicles having a gross loaded weight of less than 24,000 pounds, while being demonstrated in the course of the dealer's business.

History: (1) thru (5)En. Sec. 6-215, Ch. 197, L. 1965; amd. Sec. 5, Ch. 290, L. 1967; amd. Sec. 119, Ch. 316, L. 1974; amd. Sec. 15, Ch. 74, L. 1975; Sec. 32-3315, R.C.M. 1947; (6)En. Sec. 5, Ch. 75, L. 1917; amd. Sec. 1, Ch. 207, L. 1919; re-en. Sec. 1759, R.C.M. 1921; amd. Sec. 22, Ch. 113, L. 1925; amd. Sec. 2, Ch. 181, L. 1929; amd. Sec. 1, Ch. 158, L. 1931; amd. Sec. 1, Ch. 158, L. 1933; amd. Sec. 1, Ch. 72, L. 1937; amd. Sec. 1, Ch. 195, L. 1953; amd. Sec. 1, Ch. 256, L. 1955; amd. Sec. 1, Ch. 223, L. 1957; amd. Sec. 1, Ch. 245, L. 1963; amd. Sec. 1, Ch. 290, L. 1967; amd. Sec. 9, Ch. 296, L. 1967; amd. Sec. 3, Ch. 214, L. 1971; amd. Sec. 12, Ch. 74, L. 1975; amd. Sec. 1, Ch. 55, L. 1977; amd. Sec. 1, Ch. 521, L. 1977; amd. Sec. 43, Ch. 566, L. 1977; Sec. 53-114, R.C.M. 1947; (7)En. Sec. 12, Ch. 219, L. 1951; amd. Sec. 1, Ch. 262, L. 1967; amd. Sec. 1, Ch. 46, L. 1973; Sec. 53-626, R.C.M. 1947; amd. and redes. 32-3319 by Sec. 183, Ch. 316, L. 1974; Sec. 32-3319, R.C.M. 1947; R.C.M. 1947, 32-3315(part), 32-3319(part), 53-114(6); amd. Sec. 38, Ch. 421, L. 1979; amd. Sec. 13, Ch. 712, L. 1979; amd. Sec. 30, Ch. 614, L. 1981; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 1, Ch. 657, L. 1983; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1, Ch. 585, L. 1987; amd. Sec. 25, Ch. 611, L. 1987; amd. Sec. 3, Ch. 517, L. 1989; amd. Sec. 32, Ch. 15, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 15, Sp. L. July 1992, at beginning of (6) inserted exception clause.

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Applicability — Termination: Section 39(5), Ch. 15, Sp. L. July 1992, provided that this section applies for 1 calendar year to tax or fee liabilities for months beginning after August 14, 1992. This section terminates upon receipt of taxes or fees for the final month of applicability.

61-3-551. *(Temporary)* **Surtax — distribution.** (1) In addition to the amount of tax liability determined under 61-3-502, each purchaser of a new vehicle subject to taxation under this part shall pay, as a surtax, 7% of the tax liability.

(2) The surtax imposed by this section must be deposited to the credit of the state general fund.

History: En. Sec. 33, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Applicability — Termination: Section 39(5), Ch. 15, Sp. L. July 1992, provided that this section applies for 1 calendar year to tax or fee liabilities for months beginning after August 14, 1992. This section terminates upon

receipt of taxes or fees for the final month of applicability.

CHAPTER 5

DRIVERS' LICENSES

Part 1

Licensing Provisions

61-5-121. *(Temporary)* **Disposition of fees.** (1) The disposition of the fees from driver's licenses provided for in 61-5-111(7)(a), motorcycle endorsements provided for in 61-5-111(7)(b), commercial vehicle operator's endorsements provided for in 61-5-111(7)(c), and duplicate driver's licenses provided for in 61-5-114 is as follows:

(a) Except as provided in subsection (4), the amount of 25% of each driver's license fee and of each duplicate driver's license fee must be deposited into an account in the state special revenue fund. The department shall transfer the funds from this account to the Montana highway patrol officers' retirement pension trust fund as provided in 19-6-404. Funds transferred from the account are statutorily appropriated, as provided in 17-7-502, to the pension trust fund.

(b) (i) If the fees are collected by a county treasurer or other agent of the department, the amount of 3.75% of each driver's license fee and of each duplicate driver's license fee must be deposited into the county general fund.

(ii) Except as provided in subsection (3), if the fees are collected by the department, the amount provided for in subsection (1)(b)(i) must be deposited into the state special revenue fund for use by the department to defray the costs of issuing licenses or duplicate licenses.

(c) (i) If the fee is collected by a county treasurer or other agent of the department, the amount of 5% of each motorcycle endorsement must be deposited into the county general fund.

(ii) Except as provided in subsection (3), if the fee is collected by the department, the amount provided for in subsection (1)(c)(i) must be deposited into the state special revenue fund for use by the department to defray the costs of issuing motorcycle endorsements.

(d) The amount of 17.5% of each driver's license fee and of each duplicate driver's license fee must be deposited into the state traffic education account.

(e) The amount of 53.75% of each driver's license fee and of each duplicate driver's license fee must be deposited into the state general fund.

(f) If the fee is collected by the county treasurer or other agent of the department, the amount of 3.75% of each commercial vehicle operator's endorsement fee must be deposited into the county general fund, otherwise all of the fee must be deposited in the state general fund.

(g) The amount of 95% of each motorcycle endorsement fee must be deposited into the state traffic education account in the state special revenue fund.

(2) (a) If fees from driver's licenses, commercial vehicle operator's endorsements, motorcycle endorsements, and duplicate driver's licenses are collected by a county treasurer or other agent of the department, he shall deposit the amounts provided for in subsections (1)(b)(i) and (1)(c)(i) into the county general fund. He shall then remit to the state treasurer all remaining fees, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state traffic education account, and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a) and (1)(d) through (1)(g).

(b) If fees from driver's licenses, commercial vehicle operator's endorsements, motorcycle endorsements, and duplicate driver's licenses are collected by the department, it shall remit all fees to the state treasurer, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state special revenue fund, the state traffic education account, and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d) through (1)(g).

(3) On or before June 30, 1993, the balance in the driver's license collections account in the state special revenue fund collected pursuant to subsections (1)(b)(ii) and (1)(c)(ii) must be transferred to the general fund.

(4) On or before September 1, 1992, the department shall transfer $750,000 from the state special revenue fund provided for in subsection (1)(a) to the general fund. *(Terminates September 2, 1992—sec. 8(2), Ch. 11, Sp. L. July 1992.)*

61-5-121. *(Effective September 2, 1992)* **Disposition of fees.** (1) The disposition of the fees from driver's licenses provided for in 61-5-111(7)(a), motorcycle endorsements provided for in 61-5-111(7)(b), commercial vehicle operator's endorsements provided for in 61-5-111(7)(c), and duplicate driver's licenses provided for in 61-5-114 is as follows:

(a) The amount of 25% of each driver's license fee and of each duplicate driver's license fee must be deposited into an account in the state special revenue fund. The department shall transfer the funds from this account to the Montana highway patrol officers' retirement pension trust fund as provided in 19-6-404. Funds transferred from the account are statutorily appropriated, as provided in 17-7-502, to the pension trust fund.

(b) (i) If the fees are collected by a county treasurer or other agent of the department, the amount of 3.75% of each driver's license fee and of each duplicate driver's license fee must be deposited into the county general fund.

(ii) Except as provided in subsection (3), if the fees are collected by the department, the amount provided for in subsection (1)(b)(i) must be deposited into the state special revenue fund for use by the department to defray the costs of issuing licenses or duplicate licenses.

(c) (i) If the fee is collected by a county treasurer or other agent of the department, the amount of 5% of each motorcycle endorsement must be deposited into the county general fund.

(ii) Except as provided in subsection (3), if the fee is collected by the department, the amount provided for in subsection (1)(c)(i) must be deposited into the state special revenue fund for use by the department to defray the costs of issuing motorcycle endorsements.

(d) The amount of 17.5% of each driver's license fee and of each duplicate driver's license fee must be deposited into the state traffic education account.

(e) The amount of 53.75% of each driver's license fee and of each duplicate driver's license fee must be deposited into the state general fund.

(f) If the fee is collected by the county treasurer or other agent of the department, the amount of 3.75% of each commercial vehicle operator's endorsement fee must be deposited into the county general fund, otherwise all of the fee must be deposited in the state general fund.

(g) The amount of 95% of each motorcycle endorsement fee must be deposited into the state traffic education account in the state special revenue fund.

(2) (a) If fees from driver's licenses, commercial vehicle operator's endorsements, motorcycle endorsements, and duplicate driver's licenses are collected by a county treasurer or other agent of the department, he shall deposit the amounts provided for in subsections (1)(b)(i) and (1)(c)(i) into the county general fund. He shall then remit to the state treasurer all remaining fees, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state traffic education account, and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a) and (1)(d) through (1)(g).

(b) If fees from driver's licenses, commercial vehicle operator's endorsements, motorcycle endorsements, and duplicate driver's licenses are collected by the department, it shall remit all fees to the state treasurer, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state special revenue fund, the state traffic education account, and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d) through (1)(g).

(3) On or before June 30, 1993, the balance in the driver's license collections account in the state special revenue fund collected pursuant to subsections (1)(b)(ii) and (1)(c)(ii) must be transferred to the general fund. *(Terminates July 1, 1993—sec. 7(1), Ch. 5, Sp. L. January 1992.)*

61-5-121. *(Effective July 1, 1993)* **Disposition of fees.** (1) The disposition of the fees from driver's licenses provided for in 61-5-111(7)(a), motorcycle endorsements provided for in 61-5-111(7)(b), commercial vehicle operator's endorsements provided for in 61-5-111(7)(c), and duplicate driver's licenses provided for in 61-5-114 is as follows:

(a) The amount of 25% of each driver's license fee and of each duplicate driver's license fee must be deposited into an account in the state special

revenue fund. The department shall transfer the funds from this account to the Montana highway patrol officers' retirement pension trust fund as provided in 19-6-404. Funds transferred from the account are statutorily appropriated, as provided in 17-7-502, to the pension trust fund.

(b) (i) If the fees are collected by a county treasurer or other agent of the department, the amount of 3.75% of each driver's license fee and of each duplicate driver's license fee must be deposited into the county general fund.

(ii) If the fees are collected by the department, the amount provided for in subsection (1)(b)(i) must be deposited into the general fund.

(c) (i) If the fee is collected by a county treasurer or other agent of the department, the amount of 5% of each motorcycle endorsement must be deposited into the county general fund.

(ii) If the fee is collected by the department, the amount provided for in subsection (1)(c)(i) must be deposited into the general fund.

(d) The amount of 17.5% of each driver's license fee and of each duplicate driver's license fee must be deposited into the state traffic education account.

(e) In addition to the amounts deposited pursuant to subsections (1)(b)(ii) and (1)(c)(ii), the amount of 53.75% of each driver's license fee and of each duplicate driver's license fee must be deposited into the state general fund.

(f) If the fee is collected by the county treasurer or other agent of the department, the amount of 3.75% of each commercial vehicle operator's endorsement fee must be deposited into the county general fund, otherwise all of the fee must be deposited in the state general fund.

(g) The amount of 95% of each motorcycle endorsement fee must be deposited into the state traffic education account in the state special revenue fund.

(2) (a) If fees from driver's licenses, commercial vehicle operator's endorsements, motorcycle endorsements, and duplicate driver's licenses are collected by a county treasurer or other agent of the department, he shall deposit the amounts provided for in subsections (1)(b)(i) and (1)(c)(i) into the county general fund. He shall then remit to the state treasurer all remaining fees, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state traffic education account, and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a) and (1)(d) through (1)(g).

(b) If fees from driver's licenses, commercial vehicle operator's endorsements, motorcycle endorsements, and duplicate driver's licenses are collected by the department, it shall remit all fees to the state treasurer, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state special revenue fund, the state traffic education account, and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d) through (1)(g).

History: En. Sec. 3, Ch. 277, L. 1985; amd. Sec. 13, Ch. 503, L. 1985; amd. Sec. 115, Ch. 370, L. 1987; amd. Sec. 18, Ch. 443, L. 1987; amd. Sec. 4, Ch. 62, L. 1989; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 1, Ch. 275, L. 1989; amd. Sec. 12, Ch. 398, L. 1989; amd. Sec. 2,

Ch. 584, L. 1991; amd. Sec. 9, Ch. 701, L. 1991; amd. Sec. 2, Ch. 726, L. 1991; amd. Secs. 3, 5, Ch. 5, Sp. L. January 1992; amd. Sec. 5, Ch. 11, Sp. L. July 1992.

Compiler's Comments

July 1992 Special Session Amendment: (Temporary version) Chapter 11, Sp. L. July 1992, in (1)(a), at beginning, inserted exception clause; and inserted (4) transferring $750,000 from the highway patrol retirement clearing account to the general fund. Amendment effective August 6, 1992, and terminates September 2, 1992.

January 1992 Special Session Amendments: (Temporary version and version effective September 2, 1992) Section 3, Ch. 5, at beginning of (1)(b)(ii) and (1)(c)(ii) inserted exception clause; and inserted (3) pertaining to the deposit of certain fees into the general fund on or before June 30, 1993. Amendment effective January 21, 1992.

(Version effective July 1, 1993) Section 5, Ch. 5, at end of (1)(b)(ii) substituted deposit in the general fund for deposit in the state special revenue fund to defray costs of issuing licenses or duplicate licenses; at end of (1)(c)(ii) substituted deposit in the general fund for deposit in the state special revenue fund to defray costs of issuing motorcycle endorsements; and at beginning of (1)(e) inserted "In addition to the amounts deposited pursuant to subsections (1)(b)(ii) and (1)(c)(ii)". Amendment effective July 1, 1993.

Effective Date — Termination: Section 7(1), Ch. 5, Sp. L. January 1992, provided that this section is effective on passage and approval (approved January 21, 1992) and terminates July 1, 1993.

1991 Amendments: Chapter 584 in (1)(d), near middle after "duplicate driver's license fee", deleted "and the amount of 35% of each motorcycle endorsement fee"; in (1)(e), near middle after "duplicate driver's license fee", deleted "and the amount of 60% of each motorcycle endorsement fee"; inserted (1)(g) concerning depositing 95% of motorcycle endorsement fee into motorcycle safety training account (now state traffic education account, pursuant to sec. 9, Ch. 701, L. 1991, a coordination instruction); and in (2)(a), near end of second sentence, and in (2)(b), near end of first sentence, inserted "the motorcycle safety training account" (now state traffic education account, pursuant to sec. 9, Ch. 701, L. 1991, a coordination instruction) and at end of each subsection inserted reference to 61-5-121(1)(g). Amendment effective July 1, 1991.

Chapter 726 in (1)(a) reduced amount of fee deposited in state special revenue fund from 33 ⅓% to 25%; in (1)(b)(i) reduced amount of fee deposited in county general fund from 5% to 3.75%; in (1)(d) reduced amount of fee deposited in traffic education account from 23 ⅓% to 17.5%; in (1)(e) increased amount of fee deposited in state general fund from 38 1/3% to 53.75%; and in (1)(f) reduced amount of fee deposited in county general fund from 5% to 3.75%. Amendment effective July 1, 1991.

Coordination Instruction: Section 9, Ch. 701, L. 1991, provided: "If House Bill No. 560, including provisions amending 61-5-121 to deposit money in the motorcycle safety training account, is passed and approved, then [section 1 of House Bill No. 560] [amending 61-2-406 (repealed sec. 8, Ch. 701, L. 1991)] is void and the code commissioner shall change "motorcycle safety training account" in 61-5-121, as amended by House Bill No. 560, to "state traffic education account"." House Bill No. 560 was approved April 23, 1991, as Ch. 584, L. 1991, and included amendments to 61-5-121. Therefore, the Code Commissioner has changed the reference to the state traffic education account as indicated in the coordination instruction.

CHAPTER 10

SIZE — WEIGHT — LOAD

Part 2

Gross Vehicle Weight Licensing Requirements

61-10-241. *(Temporary)* **Surtax.** Each person required to pay a fee under this part shall pay, in addition to the fee, a surtax of 7% of the fee.

History: En. Sec. 34, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Applicability — Termination: Section 39(5), Ch. 15, Sp. L. July 1992, provided that this section applies for 1 calendar year to tax or fee liabilities for months beginning after August 14, 1992. This section terminates upon receipt of taxes or fees for the final month of applicability.

TITLE 75

ENVIRONMENTAL PROTECTION

CHAPTER 2

AIR QUALITY

Part 2

Standards, Permits, and Variances

75-2-216. Moratorium on certain solid and hazardous waste incinerator permits. (1) Except for remedial actions pursuant to Title 75, chapter 10, part 7, or corrective actions pursuant to 75-10-405(2)(c) or 75-10-416, until October 1, 1993, the department may not issue a permit to a solid or hazardous waste incinerator subject to the requirements of 75-2-215.

(2) Notwithstanding the provisions of (1), the department shall proceed in a reasonable and timely manner in adopting rules implementing 75-2-215 and in processing air quality permit applications required under 75-2-211 for solid or hazardous waste incinerators.

History: En. Sec. 1, Ch. 16, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 6, Ch. 16, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

CHAPTER 10

WASTE AND LITTER CONTROL

Part 2

Licensing of Refuse Disposal and Transportation Montana Solid Waste Management Act

75-10-210. Moratorium on certain solid waste facility permits. (1) Except for remedial actions pursuant to Title 75, chapter 10, part 7, or corrective actions pursuant to 75-10-405(2)(c) or 75-10-416, until October 1, 1993, the department may not issue a license under 75-10-221 for a solid waste facility if the facility is also subject to the requirements of 75-2-215.

(2) Notwithstanding the provisions of (1), the department shall proceed in a reasonable and timely manner in processing solid waste applications required under 75-10-221.

History: En. Sec. 2, Ch. 16, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 6, Ch. 16, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Part 4

Hazardous Waste Management

75-10-442. Moratorium on certain hazardous waste facility permits. (1) Until October 1, 1993, the department may not issue a permit under 75-10-406 for a boiler or industrial furnace that burns hazardous waste or hazardous waste-derived fuel.

(2) Notwithstanding the provisions of (1), the department shall proceed in a reasonable and timely manner in adopting rules implementing 75-10-406 and in processing applications required under 75-10-406.

History: En. Sec. 3, Ch. 16, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 6, Ch. 16, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

TITLE 82

MINERALS, OIL, AND GAS

CHAPTER 11

OIL AND GAS CONSERVATION

Part 1

Regulation by Board of Oil and Gas Conservation

82-11-135. *(Temporary)* **Money earmarked for board expenses.** Except as provided in 82-11-171, all money collected under this chapter shall be deposited in the state special revenue fund by the state treasurer and shall be used for the purpose of paying all expenses of the board and for no other purpose. All these moneys shall be used by the board subject to biennial appropriations by the legislature. Income and interest from investment of the board's moneys in the state special revenue fund shall be credited to the board.

82-11-135. *(Effective January 1, 1994)* **Money earmarked for board expenses.** All money collected under this chapter shall be deposited in the state special revenue fund by the state treasurer and shall be used for the purpose of paying all expenses of the board and for no other purpose. All these moneys shall be used by the board subject to biennial appropriations by the legislature. Income and interest from investment of the board's moneys in the state special revenue fund shall be credited to the board.

History: En. Sec. 22, Ch. 238, L. 1953; amd. Sec. 1, Ch. 234, L. 1955; amd. Sec. 1, Ch. 198, L. 1957; amd. Sec. 1, Ch. 47, L. 1961; amd. Sec. 160, Ch. 147, L. 1963; amd. Sec. 1, Ch. 315, L. 1973; amd. Sec. 1, Ch. 130, L. 1974; amd. Sec. 81, Ch. 253, L. 1974; amd. Sec. 1, Ch. 413, L. 1975; amd. Sec. 1, Ch. 178, L. 1977; amd. Sec. 1, Ch. 254, L. 1977; R.C.M. 1947, 60-145(7); amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 3, Ch. 265, L. 1987; amd. Sec. 35, Ch. 15, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 15, Sp. L. July 1992, at beginning inserted exception clause.

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Applicability — Termination: Section 39(6), Ch. 15, Sp. L. July 1992, provided that this section applies to the tax year beginning after December 31, 1992, and ending before January 1, 1994. This section terminates upon receipt of taxes for tax year 1993.

82-11-171. *(Temporary)* **Surtax.** (1) Each person required to pay the tax under this part shall pay, in addition to the tax liability determined under 82-11-131, a surtax of 7% of the tax liability.

(2) The additional tax must be deposited to the credit of the general fund.

History: En. Sec. 36, Ch. 15, Sp. L. July 1992.

Compiler's Comments

Effective Date: Section 38, Ch. 15, Sp. L. July 1992, provided that this act is effective on passage and approval. The act became effective pursuant to Article VI, sec. 10, of the Montana Constitution due to the passage of 25 days after delivery without gubernatorial action on the bill. Effective August 14, 1992.

Applicability — Termination: Section 39(6), Ch. 15, Sp. L. July 1992, provided that this section applies to the tax year beginning after December 31, 1992, and ending before January 1, 1994. This section terminates upon receipt of taxes for tax year 1993.

TITLE 90

PLANNING, RESEARCH, AND DEVELOPMENT

CHAPTER 6

COMMUNITY IMPACT — PLANNING AND ABATEMENT

Part 1

Financing of Housing

90-6-107. *(Temporary)* **Deposit and expenditure of funds.** (1) There is a housing authority enterprise fund in the proprietary fund type as provided for in 17-2-102(1)(b). All funds from the proceeds of bonds issued under this part, fees, and other moneys received by the board, moneys appropriated by the legislature for the use of the board in carrying out this part, and moneys made available from any other source for the use of the board shall be deposited in the housing authority enterprise fund except where otherwise provided in subsection (4) or by law. All funds deposited in the housing authority enterprise fund, except funds appropriated by the legislature for use of the board in payment of expenses incurred in carrying out this part, are continuously appropriated to and may be expended by the board for the purposes authorized in this part.

(2) There is a capital reserve account in the housing authority enterprise fund provided for in subsection (1). The capital reserve account consists of the aggregate of moneys retained by the board under existing agreements with bondholders as the minimum capital reserve requirement described in 90-6-119 for each bond issue sold by the board.

(3) Funds appropriated by the legislature for use of the board in payment of expenses incurred in carrying out this part shall be deposited in the housing authority enterprise fund. Funds expended by the board under this subsection shall be repaid by the board from the fees and charges collected under this

part and from any other moneys available for such repayment in accordance with this part.

(4) On or before September 1, 1992, the board shall transfer $500,000 from the fund specified in subsection (1) to the general fund. *(Terminates September 2, 1992—sec. 8(2), Ch. 11, Sp. L. July 1992.)*

90-6-107. *(Effective September 2, 1992)* **Deposit and expenditure of funds.** (1) There is a housing authority enterprise fund in the proprietary fund type as provided for in 17-2-102(1)(b). All funds from the proceeds of bonds issued under this part, fees, and other moneys received by the board, moneys appropriated by the legislature for the use of the board in carrying out this part, and moneys made available from any other source for the use of the board shall be deposited in the housing authority enterprise fund except where otherwise provided by law. All funds deposited in the housing authority enterprise fund, except funds appropriated by the legislature for use of the board in payment of expenses incurred in carrying out this part, are continuously appropriated to and may be expended by the board for the purposes authorized in this part.

(2) There is a capital reserve account in the housing authority enterprise fund provided for in subsection (1). The capital reserve account consists of the aggregate of moneys retained by the board under existing agreements with bondholders as the minimum capital reserve requirement described in 90-6-119 for each bond issue sold by the board.

(3) Funds appropriated by the legislature for use of the board in payment of expenses incurred in carrying out this part shall be deposited in the housing authority enterprise fund. Funds expended by the board under this subsection shall be repaid by the board from the fees and charges collected under this part and from any other moneys available for such repayment in accordance with this part.

History: En. 35-523 by Sec. 24, Ch. 461, L. 1975; R.C.M. 1947, 35-523; amd. Sec. 2, Ch. 249, L. 1983; amd. Sec. 6, Ch. 11, Sp. L. July 1992.

Compiler's Comments

1992 Special Session Amendment: Chapter 11, Sp. L. July 1992, in (1), near middle, inserted reference to subsection (4); and inserted (4) transferring $500,000 from the housing authority enterprise fund to the general fund. Amendment effective August 6, 1992, and terminates September 2, 1992.

Part 7

Treasure State Endowment Program

Part Compiler's Comments

Endowment Fund to Continue: Section 7, Ch. 3, Sp. L. January 1992, provided: "The treasure state endowment fund created in 17-5-703 must be maintained even though transfers to the fund from the coal severance tax bond fund cease on June 30 of the 20th year following the initial transfer to the fund, as provided in [section 10]. Interest earnings from the treasure state endowment fund must continue to be paid annually to the treasure state endowment special revenue account as provided in 17-5-703(4)(b)."

Trust Fund Inviolate: Section 8, Ch. 3, Sp. L. January 1992, provided: "[Sections 1, 2, and 5 through 10] [Title 90, ch. 6, part 7] do not authorize or permit the expenditure of any part of the coal severance tax trust fund created by Article IX, section 5, of the Montana constitution."

Coal Tax Transfer: Section 10, Ch. 3, Sp. L. January 1992, provided: "On July 1, 1993, $10 million is transferred from the coal severance tax permanent fund to the treasure state endowment fund and is dedicated for the purposes provided in [this act]."

90-6-701. Treasure state endowment program created — definitions. (1) There is a treasure state endowment program that consists of:

(a) the treasure state endowment fund established in 17-5-703; and

(b) the infrastructure portion of the coal severance tax bond program provided for in 17-5-701(2).

(2) Interest from the treasure state endowment fund and from proceeds of the sale of bonds under 17-5-701(2) may be used to provide financial assistance for local government infrastructure projects under this part.

(3) As used in this part, the following definitions apply:

(a) "Infrastructure projects" means:

(i) drinking water systems;

(ii) wastewater treatment;

(iii) sanitary sewer or storm sewer systems;

(iv) solid waste disposal and separation systems, including site acquisition, preparation, or monitoring; or

(v) bridges.

(b) "Local government" means an incorporated city or town, a county, or a consolidated local government.

(c) "Treasure state endowment fund" means the coal severance tax infrastructure endowment fund established in 17-5-703(1)(b).

(d) "Treasure state endowment program" means the local government infrastructure investment program established in subsection (1).

History: En. Sec. 1, Ch. 3, Sp. L. January 1992.

Compiler's Comments

Effective Date: Chapter 3, Sp. L. January 1992, approved by the electorate June 2, 1992, did not contain an effective date. Pursuant to 1-2-201, this section is effective October 1, 1992.

90-6-702. Purpose. The purpose of the treasure state endowment program is to assist local governments in funding infrastructure projects that will:

(1) create jobs for Montana residents;

(2) promote economic growth in Montana by helping to finance the necessary infrastructure;

(3) encourage local public facility improvements;

(4) create a partnership between the state and local governments to make necessary public projects affordable;

(5) support long-term, stable economic growth in Montana;

(6) protect future generations from undue fiscal burdens caused by financing necessary public works;

(7) coordinate and improve infrastructure financing by federal, state, local government, and private sources; and

(8) enhance the quality of life and protect the health, safety, and welfare of Montana citizens.

History: En. Sec. 2, Ch. 3, Sp. L. January 1992.

Compiler's Comments

Effective Date: Chapter 3, Sp. L. January 1992, approved by the electorate June 2, 1992, did not contain an effective date. Pursuant to 1-2-201, this section is effective October 1, 1992.

90-6-703. Types of financial assistance available. The legislature shall provide for and make available to local governments the following types of financial assistance under this part:

(1) matching grants for local infrastructure projects;

(2) annual debt service subsidies on local infrastructure projects; and

(3) loans from the proceeds of coal severance tax bonds at a subsidized interest rate.

History: En. Sec. 5, Ch. 3, Sp. L. January 1992.

Compiler's Comments

Effective Date: Chapter 3, Sp. L. January 1992, approved by the electorate June 2, 1992, did not contain an effective date. Pursuant to 1-2-201, this section is effective October 1, 1992.

90-6-704 through 90-6-709 reserved.

90-6-710. Priorities for projects — procedure — rulemaking. (1) The department of commerce must receive proposals for projects from local governments as defined in 90-6-701(3)(b). The department shall work with a local government in preparing cost estimates for a project. In reviewing project proposals, the department may consult with other state agencies with expertise pertinent to the proposal. The department shall prepare and submit a list containing the recommended projects and the recommended form of financial assistance for each project to the governor, prioritized pursuant to subsection (2). The governor shall review the projects recommended by the department of natural resources and conservation under Title 85, chapter 1, part 6, and shall submit a list of recommended projects and the recommended financial assistance to the legislature.

(2) In preparing recommendations under subsection (1), preference must be given to projects based on the following order of priority:

(a) projects that solve urgent and serious public health or safety problems;

(b) projects that enable local governments to meet state or federal health or safety standards;

(c) projects that enable local governments to obtain funds from sources other than the funds provided under this part;

(d) projects that provide long-term, full-time job opportunities for Montanans;

(e) projects that provide public facilities necessary for the expansion of a business that has a high potential for financial success;

(f) projects that result in a benefit to the public commensurate with the amount of financial assistance;

(g) projects that reflect greater need for financial assistance than other projects;

(h) projects that maintain the tax base or that do not discourage expansion of the tax base; and

(i) projects that are high local priorities and have strong community support.

(3) After the review required by subsection (1), the projects must be approved by the legislature.

(4) The department of natural resources and conservation shall adopt rules to implement the prioritization and recommendation of projects to be financed pursuant to 17-5-701.

(5) Except as provided in subsection (4), the department of commerce shall adopt rules necessary to implement the treasure state endowment program.

History: En. Sec. 6, Ch. 3, Sp. L. January 1992.

Compiler's Comments

Effective Date: Chapter 3, Sp. L. January 1992, approved by the electorate June 2, 1992, did not contain an effective date. Pursuant to 1-2-201, this section is effective October 1, 1992.

90-6-704 through 90-6-709 reserved.

90-6-710 Priorities for projects — procedure — criteria. (1) The department of commerce shall receive proposals for projects from local governments as defined in 90-6-701(3)(b). The department shall work with a local government in preparing cost estimates for a project. In reviewing project proposals, the department may consult with other state agencies with expertise pertinent to the proposal. The department shall prepare and submit a list containing the recommended projects and the recommended form of financial assistance for each project to the governor, prioritized pursuant to subsection (2). The governor shall review the projects recommended by the department of natural resources and conservation under Title 90, chapter 1, part 6, and shall submit a list of recommended projects and the recommended financial assistance to the legislature.

(2) In preparing recommendations under subsection (1), preference must be given to projects based on the following order of priority:

(a) projects that solve urgent and serious public health or safety problems;

(b) projects that enable local governments to meet state or federal health or safety standards;

(c) projects that enable local governments to obtain funds from sources other than the funds provided under this part;

(d) projects that provide long-term, full-time job opportunities for Montanans;

(e) projects that provide public facilities necessary for the expansion of a business that has a high potential for financial success;

(f) projects that result in a benefit to the public commensurate with the amount of financial assistance;

(g) projects that reflect greater need for financial assistance than other projects;

(h) projects that maintain the tax base or that do not encourage expansion of the tax base; and

(i) projects that are high local priorities and have strong community support.